

# SENATE BILL 54

K3, P1

4lr0109

(PRE-FILED)

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By: **Chair, Finance Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Requested: November 15, 2013

Introduced and read first time: January 8, 2014

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: January 27, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Labor and Employment – Maryland Apprenticeship and Training Council**

3 FOR the purpose of specifying that the duties of the Maryland Apprenticeship and  
4 Training Council are to be carried out consistent with the approval of the  
5 Division of Labor and Industry; clarifying that apprenticeable occupations are  
6 approved by the Council and recognized by the Division; clarifying that  
7 certificates of approval for certain programs are issued jointly by the Council  
8 and the Division; specifying that certain rules and regulations adopted by the  
9 Council must be adopted in consultation with the Division; specifying that  
10 certain duties of the Council must be exercised consistent with the approval of  
11 the Division; repealing a certain prohibition against the Council denying  
12 qualified applications for certain programs under certain circumstances;  
13 authorizing the Council, under certain circumstances, to designate certain  
14 Council members to present the position of the Council to the Secretary of  
15 Labor, Licensing, and Regulation for consideration of an issue on which the  
16 Council and the Division disagree; requiring that a representative of the  
17 Division also shall have an opportunity to present the position of the Division to  
18 the Secretary; requiring the Secretary to issue a final decision on the issue after  
19 consideration of the positions of the Council and the Division; providing that a  
20 certain decision is the final agency decision; providing that a party other than  
21 the Council or the Division that is aggrieved by a certain decision is entitled to  
22 judicial review as provided in the Administrative Procedure Act; altering the  
23 duties of the Director of Apprenticeship and Training to include periodically

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 informing the Division, rather than only the Council, regarding the progress of  
 2 certain programs; making conforming changes; making stylistic changes; and  
 3 generally relating to the Maryland Apprenticeship and Training Council.

4 BY repealing and reenacting, with amendments,  
 5 Article – Labor and Employment  
 6 Section 11–405 and 11–406  
 7 Annotated Code of Maryland  
 8 (2008 Replacement Volume and 2013 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article – Labor and Employment**

12 11–405.

13 (a) **[The] SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** duties of  
 14 the Council, **CONSISTENT WITH THE APPROVAL OF THE DIVISION OF LABOR AND**  
 15 **INDUSTRY**, shall be to:

16 (1) determine the apprenticeability of trades in the State of Maryland;

17 (2) encourage the establishment of local apprenticeship committees  
 18 where such committees are needed and approve their programs;

19 (3) formulate and adopt standards of apprenticeship which safeguard  
 20 the welfare of apprentices, being guided, but not controlled, by the standards of  
 21 apprenticeship recommended by the federal committee on apprenticeship and provide  
 22 guidance and counsel on the establishment of other forms of on–the–job training;

23 (4) formulate policies for the overall apprenticeship program;

24 (5) register standards of apprenticeship of such groups or employers  
 25 as elect to conform with the provisions of this subtitle;

26 (6) register apprenticeship agreements which conform to the  
 27 standards of apprenticeship adopted by the Council;

28 (7) issue certificates of completion of apprenticeship to apprentices  
 29 who are registered with the Council when such apprentices have completed  
 30 successfully their apprenticeship;

31 (8) seek all information pertaining to apprenticeship training in the  
 32 State;

1           (9)    prescribe its rules of procedure and duties of the Chairman,  
2 Director, and Secretary subject to the provisions of this law; and

3           (10)   perform such other functions as the Governor or the Secretary may  
4 direct or as may come within the scope of the Council.

5           (b)   (1)   No person, firm, or corporation may offer, establish, maintain, or  
6 operate an apprenticeship or on-the-job training program for any occupation  
7 [recognized as an apprenticeable occupation] **APPROVED** by the Council **AND**  
8 **RECOGNIZED BY THE DIVISION OF LABOR AND INDUSTRY AS AN**  
9 **APPRENTICEABLE OCCUPATION** for which tuition, charges, or fees are charged to or  
10 are payable by an enrollee or student, or which is financed in whole or in part by State  
11 funds, unless the program is first approved by the Council **OR THE SECRETARY**  
12 **UNDER SUBSECTION (D) OF THIS SECTION.**

13           (2)   The Council **AND THE DIVISION OF LABOR AND INDUSTRY**  
14 **JOINTLY** shall issue a certificate of approval to an applicant operating or proposing to  
15 operate the program if [it is] **THEY ARE** satisfied, **OR THE SECRETARY UNDER**  
16 **SUBSECTION (D) OF THIS SECTION IS SATISFIED**, that the conditions of entrance,  
17 the qualifications of the administrators and instructors, the content of the program,  
18 the facilities, and the financial aspects of the program are adequate and appropriate  
19 for the purpose of the program.

20           (3)   The Council, after notice and hearing, may suspend or revoke its  
21 approval of a program or course if it, **OR THE SECRETARY UNDER SUBSECTION (D)**  
22 **OF THIS SECTION**, finds that the program or course has ceased to meet the conditions  
23 of approval.

24           (4)   Any person, firm, or corporation whose application for approval is  
25 rejected or whose certificate of approval is suspended or revoked has a right of judicial  
26 review as provided in the Administrative Procedure Act.

27           (5)   Except as otherwise provided in this section, the Council, **IN**  
28 **CONSULTATION WITH THE DIVISION OF LABOR AND INDUSTRY**, after notice and  
29 hearing, may adopt rules and regulations for the implementation of this section,  
30 including[, but not limited to,] rules and regulations requiring the furnishing of  
31 periodic relevant information about approved and proposed programs and the operator  
32 or proposed operator [thereof] **OF THE APPROVED OR PROPOSED PROGRAMS.**

33           (6)   Any person, firm, or corporation that knowingly offers, establishes,  
34 maintains, or operates a program in violation of this section is guilty of a misdemeanor  
35 and, upon conviction, shall be fined not more than \$1,000 or be imprisoned for not  
36 more than one year, or both.

1           (7) The Council, **CONSISTENT WITH THE APPROVAL OF THE**  
2 **DIVISION OF LABOR AND INDUSTRY**, in addition, shall apply to any court of  
3 competent jurisdiction for an injunction restraining violations of this section.

4           [(8) (i) Except as provided in subparagraph (ii) of this paragraph,  
5 the Council may not deny any otherwise qualified application where apprentices  
6 constitute a number equal to or less than 25 percent of the total number of apprentices  
7 and journeymen employed.]

8           (ii) For the purpose of equal opportunity employment, the  
9 Council may not deny any otherwise qualified application where apprentices  
10 constitute a number equal to or less than 50 percent of the total number of apprentices  
11 and journeymen employed.]

12           (c) The Council, **CONSISTENT WITH THE APPROVAL OF THE DIVISION OF**  
13 **LABOR AND INDUSTRY**, may negotiate and adopt agreements permitting reciprocity  
14 with apprenticeship and training councils of another state, or the United States  
15 Department of Labor, Bureau of Apprenticeship and Training.

16           **(D) (1) IF A DISAGREEMENT ARISES BETWEEN THE COUNCIL AND**  
17 **THE DIVISION OF LABOR AND INDUSTRY, AS A RESULT OF A VOTE TAKEN BY**  
18 **THE COUNCIL WITH RESPECT TO ANY OF THE DUTIES AND RESPONSIBILITIES IN**  
19 **SUBSECTIONS (A) THROUGH (C) OF THIS SECTION, THE COUNCIL MAY**  
20 **DESIGNATE THREE COUNCIL MEMBERS WHO VOTED IN THE MAJORITY TO**  
21 **PRESENT THE POSITION OF THE COUNCIL TO THE SECRETARY FOR**  
22 **CONSIDERATION OF THE ISSUE ON WHICH THE COUNCIL AND THE DIVISION**  
23 **DISAGREE.**

24           **(2) A REPRESENTATIVE OF THE DIVISION OF LABOR AND**  
25 **INDUSTRY ALSO SHALL HAVE AN OPPORTUNITY TO PRESENT THE POSITION OF**  
26 **THE DIVISION TO THE SECRETARY.**

27           **(3) (I) AFTER CONSIDERATION OF THE POSITIONS OF THE**  
28 **COUNCIL AND THE DIVISION OF LABOR AND INDUSTRY, THE SECRETARY SHALL**  
29 **ISSUE A FINAL DECISION ON THE ISSUE.**

30           **(II) THE FINAL DECISION ISSUED UNDER SUBPARAGRAPH**  
31 **(I) OF THIS PARAGRAPH SHALL BE THE FINAL AGENCY DECISION.**

32           **(4) IF A PARTY OTHER THAN THE COUNCIL OR THE DIVISION OF**  
33 **LABOR AND INDUSTRY IS AGGRIEVED BY THE DECISION OF THE SECRETARY,**  
34 **THE PARTY SHALL BE ENTITLED TO JUDICIAL REVIEW AS PROVIDED IN THE**  
35 **ADMINISTRATIVE PROCEDURE ACT.**

1 11-406.

2 (A) The Secretary shall appoint a Director of Apprenticeship and Training.

3 (B) The Director of Apprenticeship and Training shall:

4 (1) have the responsibility of promoting apprenticeship and other  
5 forms of on-the-job training; and [shall]

6 (2) obtain the assistance of the Bureau of Apprenticeship and  
7 Training, U.S. Department of Labor, and other federal and State agencies in [this  
8 function] **PROMOTING APPRENTICESHIPS AND ON-THE-JOB TRAINING.**

9 (C) The Director's duties shall include[, but shall not be limited to]:

10 (1) encouragement and promotion of the standards established in  
11 accordance with this subtitle and with the basic standards of the Bureau of  
12 Apprenticeship and Training, U.S. Department of Labor;

13 (2) bringing about the settlement of differences arising out of  
14 apprenticeship programs and agreements when the differences cannot be adjusted  
15 locally or in accordance with established trade procedure;

16 (3) supervision of the execution of agreements and the maintenance of  
17 standards;

18 (4) registration of apprenticeship programs and agreements;

19 (5) keeping a record of apprenticeship agreements and programs, and  
20 upon performance thereunder issuing certificates of completion of apprenticeship;

21 (6) encouragement of liaison and cooperation between all private,  
22 State, and federal agencies concerned with apprenticeship, trade, and industrial  
23 training;

24 (7) promotion of public awareness of apprenticeship and other  
25 occupational training; and

26 (8) keeping a record of the progress of apprenticeship and training  
27 programs initiated in accordance with the provisions of this subtitle and informing the  
28 Council **AND THE DIVISION OF LABOR AND INDUSTRY** periodically as to the results.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 July 1, 2014.