

HOUSE BILL 540

K3, P4

8lr1464

By: **Delegates Korman, Barve, Dumais, Ebersole, Gibson, Hettleman, Jackson, J. Lewis, R. Lewis, Lierman, A. Miller, Queen, Reznik, and Wilkins**

Introduced and read first time: January 26, 2018

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Pre-Tax Transportation Fringe Benefit – Requirement**
3 **(Maryland Pre-Tax Commuter Benefit Act)**

4 FOR the purpose of requiring certain employers to offer certain employees an opportunity
5 to use a certain pre-tax transportation fringe benefit; authorizing an employee to
6 file a written complaint with the Commissioner of Labor and Industry under certain
7 circumstances; authorizing the Commissioner, on receipt of a written complaint, to
8 investigate whether this Act has been violated; authorizing the Commissioner to
9 attempt to resolve a certain matter informally or request the Attorney General to
10 bring a certain action on behalf of the employee; authorizing the Attorney General
11 to bring a certain action for certain relief; providing that an employer that violates
12 this Act is subject to a certain civil penalty; providing for the application of this Act;
13 defining certain terms; and generally relating to pre-tax transportation fringe
14 benefits.

15 BY adding to

16 Article – Labor and Employment

17 Section 3–103(e)(7)

18 Annotated Code of Maryland

19 (2016 Replacement Volume and 2017 Supplement)

20 (As enacted by Chapter 1 of the Acts of the General Assembly of 2018)

21 BY adding to

22 Article – Labor and Employment

23 Section 3–715

24 Annotated Code of Maryland

25 (2016 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Labor and Employment

1
2 3–103.

3 (e) (7) THE COMMISSIONER MAY, ON RECEIPT OF A WRITTEN
4 COMPLAINT FROM AN EMPLOYEE, INVESTIGATE WHETHER § 3–715 OF THIS TITLE
5 HAS BEEN VIOLATED.

6 3–715.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) “EMPLOYEE” DOES NOT INCLUDE AN INDIVIDUAL WHO:

10 (I) WORKS FEWER THAN 30 HOURS PER WEEK FOR AN
11 EMPLOYER;

12 (II) IS COVERED BY A COLLECTIVE BARGAINING AGREEMENT;

13 (III) IS NOT A COVERED EMPLOYEE UNDER § 9–222 OF THIS
14 ARTICLE;

15 (IV) IS EMPLOYED BY A TEMPORARY SERVICES AGENCY TO
16 PROVIDE TEMPORARY STAFFING SERVICES TO ANOTHER PERSON IF THE
17 TEMPORARY SERVICES AGENCY DOES NOT HAVE DAY–TO–DAY CONTROL OVER THE
18 WORK ASSIGNMENTS AND SUPERVISION OF THE INDIVIDUAL WHILE THE INDIVIDUAL
19 IS PROVIDING THE TEMPORARY STAFFING SERVICES; OR

20 (V) IS DIRECTLY EMPLOYED BY AN EMPLOYMENT AGENCY TO
21 PROVIDE PART–TIME OR TEMPORARY SERVICES TO ANOTHER PERSON.

22 (3) (I) “EMPLOYER” MEANS:

23 1. A PERSON ENGAGED IN A BUSINESS, AN INDUSTRY, A
24 PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE IN THE STATE; OR

25 2. A UNIT OF STATE OR LOCAL GOVERNMENT.

26 (II) “EMPLOYER” INCLUDES A PERSON THAT ACTS DIRECTLY
27 OR INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

28 (4) “PRE–TAX TRANSPORTATION FRINGE BENEFIT” MEANS A

1 QUALIFIED TRANSPORTATION FRINGE, CONSISTENT WITH THE PROVISIONS AND
2 LIMITS OF § 132(F)(1)(A), (B), AND (D) OF THE INTERNAL REVENUE CODE AT THE
3 MAXIMUM BENEFIT LEVELS ALLOWABLE UNDER FEDERAL LAW, THAT MAY BE
4 EXCLUDED FROM AN EMPLOYEE'S FEDERAL GROSS INCOME IN ACCORDANCE WITH §
5 132(F)(2) OF THE INTERNAL REVENUE CODE.

6 (B) THIS SECTION DOES NOT APPLY TO AN EMPLOYER THAT EMPLOYS
7 FEWER THAN 20 EMPLOYEES.

8 (C) AN EMPLOYER SHALL OFFER TO EACH EMPLOYEE THE OPPORTUNITY
9 TO USE A PRE-TAX TRANSPORTATION FRINGE BENEFIT.

10 (D) IF AN EMPLOYER VIOLATES SUBSECTION (C) OF THIS SECTION, AN
11 EMPLOYEE MAY SUBMIT TO THE COMMISSIONER A WRITTEN COMPLAINT.

12 (E) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS
13 SECTION HAS BEEN VIOLATED, THE COMMISSIONER MAY:

14 (I) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION
15 INFORMALLY BY MEDIATION; OR

16 (II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON
17 BEHALF OF THE EMPLOYEE.

18 (2) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS
19 SUBSECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED, FOR
20 INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

21 (F) AN EMPLOYER THAT VIOLATES SUBSECTION (C) OF THIS SECTION IS
22 SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2018.