

HOUSE BILL 317

D5
HB 935/18 – HGO

9lr2206
CF SB 271

By: **Delegate Cullison**

Introduced and read first time: January 28, 2019

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 13, 2019

CHAPTER _____

1 AN ACT concerning

2 **Maryland Commission on Civil Rights – Civil Penalties**

3 FOR the purpose of ~~altering certain civil penalties~~ providing that certain maximum penalty
4 amounts the Maryland Commission on Civil Rights is authorized to seek if the
5 Commission finds that a respondent has engaged in a discriminatory act under
6 certain provisions of law regarding public accommodations and persons licensed or
7 regulated by a certain unit in the Department of Labor, Licensing, and Regulation;
8 ~~providing that certain maximum penalty amounts do not apply if a certain~~
9 ~~discriminatory act is determined to be malicious; do not apply under certain~~
10 circumstances; prohibiting the Commission from seeking a civil penalty against a
11 respondent if the discriminatory act is regarding accessibility, the respondent takes
12 certain action, and the respondent has not previously been the subject of a certain
13 complaint; requiring an administrative law judge to consider certain information
14 when determining the amount of a certain civil penalty; requiring certain civil
15 penalties to be paid to a certain complainant; requiring the Commission to report
16 certain information to the Governor and the General Assembly on or before a certain
17 date in certain years; and generally relating to the Maryland Commission on Civil
18 Rights and civil penalties.

19 BY repealing and reenacting, without amendments,
20 Article – State Government
21 Section 20–304 and 20–402
22 Annotated Code of Maryland
23 (2014 Replacement Volume and 2018 Supplement)

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 BY repealing and reenacting, with amendments,
 2 Article – State Government
 3 Section 20–1016
 4 Annotated Code of Maryland
 5 (2014 Replacement Volume and 2018 Supplement)

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

8 **Article – State Government**

9 20–304.

10 An owner or operator of a place of public accommodation or an agent or employee of
 11 the owner or operator may not refuse, withhold from, or deny to any person any of the
 12 accommodations, advantages, facilities, or privileges of the place of public accommodation
 13 because of the person’s race, sex, age, color, creed, national origin, marital status, sexual
 14 orientation, gender identity, or disability.

15 20–402.

16 A person that is licensed or regulated by a unit in the Department of Labor,
 17 Licensing, and Regulation listed in § 2–108 of the Business Regulation Article may not
 18 refuse, withhold from, or deny any person any of the accommodations, advantages,
 19 facilities, privileges, sales, or services of the licensed or regulated person or discriminate
 20 against any person because of the person’s race, sex, creed, color, national origin, marital
 21 status, sexual orientation, age, gender identity, or disability.

22 20–1016.

23 (a) Except as provided in ~~subsection~~ **SUBSECTIONS (b) AND (C)** of this section,
 24 in addition to any other relief authorized, if the Commission finds that a respondent has
 25 engaged in a discriminatory act under Subtitle 3 or Subtitle 4 of this title, the Commission
 26 may seek an order assessing a civil penalty against the respondent:

27 (1) if the respondent has not been adjudicated to have committed any prior
 28 discriminatory act, in an amount not exceeding ~~[\$500]~~ **\$2,500**;

29 (2) if the respondent has been adjudicated to have committed one other
 30 discriminatory act during the 5–year period ending on the date of the filing of the current
 31 charge, in an amount ~~NOT LESS THAN \$2,500 AND~~ not exceeding ~~[\$1,000]~~ **\$10,000**; and

32 (3) if the respondent has been adjudicated to have committed two or more
 33 discriminatory acts during the 7–year period ending on the date of the filing of the current
 34 charge, in an amount ~~NOT LESS THAN \$5,000 AND~~ not exceeding ~~[\$2,500]~~ **\$25,000**.

1 (b) (1) If the discriminatory act is committed by an individual who has been
2 previously adjudicated to have committed one or more discriminatory acts, the time
3 periods ~~¶ DETERMINED TO BE MALICIOUS, THE MAXIMUM AMOUNTS~~ set forth in
4 subsection ~~¶(a)(2) and (3)¶ (A)~~ of this section do not apply.

5 (2) IF THE DISCRIMINATORY ACT IS COMMITTED BY THE AGENT OR
6 EMPLOYEE OF A RESPONDENT, THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION
7 (A)(2) AND (3) OF THIS SECTION DO NOT APPLY AND THE COMMISSION MAY SEEK AN
8 ORDER ASSESSING A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING \$25,000,
9 PROVIDED THAT:

10 (I) THE DISCRIMINATORY ACT COMMITTED BY THE AGENT OR
11 EMPLOYEE IS DETERMINED TO BE MALICIOUS; AND

12 (II) THE RESPONDENT HAS NOT REASONABLY MITIGATED HARM
13 CAUSED BY THE DISCRIMINATORY ACT.

14 (3) THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION (A)(2) AND
15 (3) DO NOT APPLY IF THE DISCRIMINATORY ACT IS FOUND TO BE MALICIOUS.

16 (C) THE COMMISSION MAY NOT SEEK AN ORDER ASSESSING A CIVIL
17 PENALTY AGAINST A RESPONDENT IF:

18 (1) THE DISCRIMINATORY ACT WAS LIMITED TO A VIOLATION
19 RELATING TO ACCESSIBILITY;

20 (2) THE RESPONDENT, AFTER BEING SERVED, TAKES PROMPT
21 CORRECTIVE ACTION; AND

22 (3) THE RESPONDENT HAS NOT PREVIOUSLY BEEN THE SUBJECT OF A
23 COMPLAINT UNDER § 20-1004 OF THIS SUBTITLE.

24 (D) IF THE COMMISSION SEEKS AN ORDER ASSESSING A CIVIL PENALTY
25 BEFORE AN ADMINISTRATIVE LAW JUDGE UNDER § 20-1008 OF THIS SUBTITLE, IN
26 DETERMINING THE AMOUNT OF THE CIVIL PENALTY TO BE IMPOSED, THE
27 ADMINISTRATIVE LAW JUDGE SHALL CONSIDER:

28 (1) THE SERIOUSNESS OF THE DISCRIMINATORY ACT;

29 (2) THE GOOD FAITH OF THE RESPONDENT;

30 (3) THE HARMFUL EFFECT TO THE PUBLIC OF THE DISCRIMINATORY
31 ACT;

1 **(4) THE HARMFUL EFFECT OF THE RESPONDENT’S ACTIONS ON THE**
2 **INVESTIGATORY PROCESS OF THE COMMISSION; AND**

3 **(5) THE RESPONDENT’S ASSETS.**

4 ~~(e)~~ **(E)** Any civil penalties collected under this section shall be paid to the
5 **[General Fund of the State] COMPLAINANT.**

6 **SECTION 2. AND BE IT FURTHER ENACTED, That on or before July 1, 2020, and**
7 **on or before July 1 of each of the immediately following 4 years, the Maryland Commission**
8 **on Civil Rights shall submit a report to the Governor and, in accordance with § 2-1246 of**
9 **the State Government Article, the General Assembly, regarding the effect Section 1 of this**
10 **Act has had on persons against whom complaints have been filed under Title 20 of the State**
11 **Government Article.**

12 **SECTION ~~2~~ 3.** AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2019.

Approved:

_____ Governor.

_____ Speaker of the House of Delegates.

_____ President of the Senate.