

SENATE BILL 329

K3
SB 726/17 – FIN

9lr0671
CF 9lr2142

By: **Senators Smith, Augustine, Carter, Elfreth, Ellis, Feldman, Ferguson, Hayes, Kramer, Lam, Lee, McCray, Rosapepe, Waldstreicher, and Washington**

Introduced and read first time: January 30, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Wage Payment and Collection Law – Awards of Certain Fees and**
3 **Costs and Prohibition Against Retaliation**

4 FOR the purpose of authorizing the court, on a certain finding in an action on behalf of an
5 employee for a violation of the Maryland Wage Payment and Collection Law, to
6 award the Attorney General reasonable counsel fees and other costs; authorizing the
7 court, on a certain finding in an action by an employee for a violation of the Maryland
8 Wage Payment and Collection Law, to award the employee reasonable counsel fees
9 and other costs; prohibiting an employer from taking certain adverse actions against
10 an employee under certain circumstances; establishing that a certain penalty applies
11 to a violation of this Act; defining a certain term; clarifying certain language; and
12 generally relating to the Maryland Wage Payment and Collection Law.

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 3–507 and 3–507.2
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2018 Supplement)

18 BY adding to
19 Article – Labor and Employment
20 Section 3–507.3
21 Annotated Code of Maryland
22 (2016 Replacement Volume and 2018 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Labor and Employment
25 Section 3–508(a) and (c)(1)
26 Annotated Code of Maryland
27 (2016 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Labor and Employment**

4 3–507.

5 (a) Whenever the Commissioner determines that this subtitle has been violated,
6 the Commissioner:

7 (1) may try to resolve any issue involved in the violation informally by
8 mediation;

9 (2) with the written consent of the employee, may ask the Attorney General
10 to bring an action in accordance with this section on behalf of the employee; and

11 (3) may bring an action on behalf of an employee in the county where the
12 violation allegedly occurred.

13 (b) (1) If, in an action under subsection (a) of this section, a court finds that an
14 employer withheld the wage of an employee in violation of this subtitle [and not]:

15 **(I) THE COURT MAY AWARD THE ATTORNEY GENERAL**
16 **REASONABLE COUNSEL FEES AND OTHER COSTS; AND**

17 **(II) UNLESS THE WAGE WAS WITHHELD** as a result of a bona fide
18 dispute, the court may award the employee an amount not exceeding 3 times the wage[,
19 and reasonable counsel fees and other costs].

20 (2) If wages of an employee are recovered under this section, they shall be
21 paid to the employee without cost to the employee.

22 3–507.2.

23 (a) Notwithstanding any remedy available under § 3–507 of this subtitle, if an
24 employer fails to pay an employee in accordance with § 3–502 or § 3–505 of this subtitle,
25 after 2 weeks have elapsed from the date on which the employer is required to have paid
26 the wages, the employee may bring an action against the employer to recover the unpaid
27 wages.

28 (b) If, in an action under subsection (a) of this section, a court finds that an
29 employer withheld the wage of an employee in violation of this subtitle [and not]:

30 **(1) THE COURT MAY AWARD THE EMPLOYEE REASONABLE COUNSEL**
31 **FEES AND OTHER COSTS; AND**

1 **(2) UNLESS THE WAGE WAS WITHHELD** as a result of a bona fide dispute,
2 the court may award the employee an amount not exceeding 3 times the wage[, and
3 reasonable counsel fees and other costs].

4 (c) (1) In this subsection, “construction services” has the meaning stated in §
5 3–901 of this title.

6 (2) In an action brought under subsection (a) of this section, a general
7 contractor on a project for construction services is jointly and severally liable for a violation
8 of this subtitle that is committed by a subcontractor, regardless of whether the
9 subcontractor is in a direct contractual relationship with the general contractor.

10 (3) A subcontractor shall indemnify a general contractor for any wages,
11 damages, interest, penalties, or attorney’s fees owed as a result of the subcontractor’s
12 violation unless:

13 (i) indemnification is provided for in a contract between the general
14 contractor and the subcontractor; or

15 (ii) a violation of the subtitle arose due to a lack of prompt payment
16 in accordance with the terms of the contract between the general contractor and the
17 subcontractor.

18 **3–507.3.**

19 **(A) IN THIS SECTION, “ADVERSE ACTION” INCLUDES:**

20 **(1) DISCHARGE;**

21 **(2) DEMOTION;**

22 **(3) DISCIPLINE;**

23 **(4) ANY OTHER ACTION THAT WOULD REASONABLY DETER AN**
24 **EMPLOYEE FROM ENGAGING IN PROTECTED ACTIVITY UNDER THIS SUBTITLE; AND**

25 **(5) THREATENING AN EMPLOYEE WITH ACTION LISTED UNDER ITEMS**
26 **(1) THROUGH (4) OF THIS SUBSECTION.**

27 **(B) AN EMPLOYER MAY NOT TAKE ADVERSE ACTION AGAINST AN EMPLOYEE**
28 **BECAUSE THE EMPLOYEE:**

29 **(1) MAKES A COMPLAINT THAT THE EMPLOYEE HAS NOT BEEN PAID**
30 **IN ACCORDANCE WITH THIS SUBTITLE;**

1 **(2) BRINGS AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING**
2 **THAT RELATES TO THE SUBJECT OF THIS SUBTITLE;**

3 **(3) HAS OPPOSED A PRACTICE PROHIBITED UNDER THIS SUBTITLE;**
4 **OR**

5 **(4) COOPERATED IN AN INVESTIGATION OR TESTIFIED,**
6 **PARTICIPATED, OR ASSISTED IN THE FURTHERANCE OF:**

7 **(I) ANY ACTION UNDER THIS SUBTITLE; OR**

8 **(II) ANY PROCEEDING RELATED TO THE SUBJECT OF THIS**
9 **SUBTITLE.**

10 3-508.

11 (a) An employer may not willfully violate this subtitle.

12 (c) (1) An employer who violates subsection (a) of this section is guilty of a
13 misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2019.