

HOUSE BILL 1448

C2, C1

0lr1983

By: **Delegates Hill, Acevero, Fraser-Hidalgo, Johnson, and Shetty**

Introduced and read first time: February 7, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commissioner of Labor and Industry – Classification of Employees and**
3 **Independent Contractors – Guidelines**

4 FOR the purpose of requiring the Commissioner of Labor and Industry, in consultation
5 with the Office of the Attorney General, to develop certain guidelines relating to the
6 classification and treatment of employees and independent contractors; requiring
7 the guidelines to be updated in a certain manner on an annual basis; requiring that
8 a certain report on personal property required to be submitted to the State
9 Department of Assessments and Taxation contain a certain certification by the
10 individual filing the report; providing that an entity that does not make the
11 certification may not be considered by the Department to be in good standing; and
12 generally relating to the classification of employees and independent contractors.

13 BY adding to

14 Article – Labor and Employment

15 Section 3–105

16 Annotated Code of Maryland

17 (2016 Replacement Volume and 2019 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Tax – Property

20 Section 11–101

21 Annotated Code of Maryland

22 (2019 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

24 That the Laws of Maryland read as follows:

25 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **3-105.**

2 (A) THE COMMISSIONER, IN CONSULTATION WITH THE OFFICE OF THE
3 ATTORNEY GENERAL, SHALL DEVELOP WRITTEN GUIDELINES THAT EXPLAIN, IN
4 PLAIN LANGUAGE:

5 (1) THE MEANINGS OF THE TERMS “EMPLOY”, “EMPLOYEE”,
6 “EMPLOYER”, AND “INDEPENDENT CONTRACTOR” AS USED IN THIS ARTICLE AND
7 ELSEWHERE IN THE CODE;

8 (2) THE LEGAL, TAX, AND FINANCIAL CONSEQUENCES OF
9 MISCLASSIFYING AND TREATING AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR,
10 INCLUDING MONETARY DAMAGES TO WORKERS AND LIABILITY FOR TAXES TO STATE
11 AND FEDERAL TAX AUTHORITIES; AND

12 (3) STEPS THAT AN EMPLOYER MAY TAKE TO ENSURE COMPLIANCE
13 WITH THE LAW.

14 (B) THE GUIDELINES SHALL BE:

15 (1) NOT LONGER THAN FIVE PAGES OF TEXT;

16 (2) PROVIDED IN WRITING ON REQUEST OF AN INDIVIDUAL; AND

17 (3) MADE AVAILABLE ON THE DEPARTMENT’S WEBSITE.

18 (C) THE COMMISSIONER, IN CONSULTATION WITH THE OFFICE OF THE
19 ATTORNEY GENERAL, SHALL REVISE AND UPDATE THE GUIDELINES ON AN ANNUAL
20 BASIS.

21 **Article – Tax – Property**

22 11-101.

23 (a) On or before April 15 of each year, a person shall submit a report on personal
24 property to the Department if:

25 (1) the person is a business trust, statutory trust, domestic corporation,
26 limited liability company, limited liability partnership, or limited partnership;

27 (2) the person is a foreign corporation, foreign statutory trust, foreign
28 limited liability company, foreign limited liability partnership, or foreign limited
29 partnership registered or qualified to do business in the State; or

1 (3) the person owns or during the preceding calendar year owned property
2 that is subject to property tax.

3 (b) The report shall:

4 (1) be in the form that the Department requires;

5 (2) be under oath as the Department requires; [and]

6 (3) contain the information that the Department requires; AND

7 (4) **INCLUDE A CERTIFICATION THAT:**

8 **(I) THE INDIVIDUAL FILING THE REPORT HAS KNOWLEDGE AND**
9 **AUTHORITY OVER THE PAY PRACTICES OF THE ENTITY FOR WHICH THE INDIVIDUAL**
10 **IS FILING THE REPORT;**

11 **(II) THE INDIVIDUAL FILING THE REPORT HAS READ THE MOST**
12 **CURRENT GUIDELINES ON THE CLASSIFICATION AND TREATMENT OF EMPLOYEES**
13 **AND INDEPENDENT CONTRACTORS DEVELOPED BY THE COMMISSIONER OF LABOR**
14 **AND INDUSTRY IN ACCORDANCE WITH § 3-105 OF THE LABOR AND EMPLOYMENT**
15 **ARTICLE; AND**

16 **(III) TO THE BEST OF THE KNOWLEDGE OF THE INDIVIDUAL**
17 **FILING THE REPORT, THE PAY PRACTICES OF THE ENTITY FOR WHICH THE**
18 **INDIVIDUAL IS FILING THE REPORT COMPLY WITH THE REQUIREMENTS OF THE LAW**
19 **RELATING TO EMPLOYEES AND INDEPENDENT CONTRACTORS.**

20 **(C) AN ENTITY THAT DOES NOT MAKE THE CERTIFICATION REQUIRED**
21 **UNDER SUBSECTION (B)(4) OF THIS SECTION MAY NOT BE CONSIDERED IN GOOD**
22 **STANDING WITH THE DEPARTMENT.**

23 **[(c)] (D) (1) This subsection does not apply to a privately held company if at**
24 **least 75% of the company's shareholders are family members.**

25 (2) If the person submitting the report is a tax-exempt, domestic nonstock
26 corporation with an operating budget exceeding \$5,000,000, or a domestic stock corporation
27 with total sales exceeding \$5,000,000, the report required by the Department shall include
28 the number of female board members and the total number of members on the person's
29 board of directors.

30 **[(d)] (E) On or before December 31, 2019, the Department shall adopt**
31 **regulations on the granting of exemptions from the reporting requirement under this**
32 **section.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2020.