

# SENATE BILL 728

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CF HB 923

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By: **Senator Feldman**

Introduced and read first time: February 5, 2021

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Worker Safety and Health – Injury and Illness**  
3 **Prevention Program**

4 FOR the purpose of requiring certain employers to develop and implement a certain health  
5 and safety committee for a certain purpose; requiring that the committee be  
6 established in accordance with certain provisions of this Act and a certain collective  
7 bargaining agreement; providing for the membership, meetings, and duties of the  
8 committee; requiring that an employee acting as a committee member be paid at a  
9 certain rate for time spent on committee activities; requiring that the committee  
10 maintain certain records and retain the records for a certain period of time; requiring  
11 each employer to establish, implement, and maintain an injury and illness  
12 prevention program; requiring certain employers to establish the program in  
13 consultation with a certain committee; establishing certain requirements for the  
14 program; requiring that certain inspections be conducted in a certain manner and by  
15 the committee, under certain circumstances, or the employer; providing that certain  
16 persons have the right and shall be given the opportunity to examine or receive a  
17 copy of the program; requiring an employer to provide certain access or copies of a  
18 program at no cost and within a certain time period; requiring that a certain copy of  
19 the program include certain records; requiring that certain records be maintained  
20 for a certain period of time; requiring the Commissioner of Labor and Industry to  
21 adopt or update certain regulations on or before a certain date each year; requiring  
22 the Commissioner to publish and maintain certain data on the website of the  
23 Maryland Department of Labor; requiring the Commissioner to report certain data  
24 to the General Assembly on or before a certain date each year; providing for the  
25 construction of this Act; defining certain terms; and generally relating to the Injury  
26 and Illness Prevention Program.

27 BY adding to

28 Article – Labor and Employment

29 Section 5–1301 through 5–1305 to be under the new subtitle “Subtitle 13. Injury and  
30 Illness Prevention Program”

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2016 Replacement Volume and 2020 Supplement)

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

5 **Article – Labor and Employment**

6 **SUBTITLE 13. INJURY AND ILLNESS PREVENTION PROGRAM.**

7 **5–1301.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (B) “COMMITTEE” MEANS A HEALTH AND SAFETY COMMITTEE  
11 ESTABLISHED UNDER § 5–1302(A) OF THIS SUBTITLE.

12 (C) “PROGRAM” MEANS A WRITTEN INJURY AND ILLNESS PREVENTION  
13 PROGRAM ESTABLISHED UNDER § 5–1303(A) OF THIS SUBTITLE.

14 **5–1302.**

15 (A) (1) EACH EMPLOYER WITH 10 OR MORE EMPLOYEES, OR WHOSE RATE  
16 OF WORK-RELATED INJURY AND ILLNESS EXCEEDS THE AVERAGE INCIDENCE RATE  
17 OF ALL INDUSTRIES IN THE STATE AS DETERMINED BY THE COMMISSIONER, SHALL  
18 DEVELOP AND IMPLEMENT A HEALTH AND SAFETY COMMITTEE TO PROMOTE  
19 HEALTH AND SAFETY IN THE WORKPLACE.

20 (2) THE COMMITTEE SHALL BE ESTABLISHED IN ACCORDANCE WITH  
21 THIS SECTION AND ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT.

22 (3) THE MEMBERSHIP OF THE COMMITTEE SHALL BE COMPOSED OF  
23 AN EQUAL NUMBER OF MANAGERIAL EMPLOYEES AND NONMANAGERIAL  
24 EMPLOYEES.

25 (4) THE EMPLOYER’S NONMANAGERIAL EMPLOYEES SHALL SELECT  
26 THE NONMANAGERIAL COMMITTEE MEMBERS.

27 (B) THE COMMITTEE SHALL:

28 (1) MEET REGULARLY, BUT NOT LESS THAN QUARTERLY;

29 (2) (I) PREPARE AND MAKE AVAILABLE TO EMPLOYEES WRITTEN

1 RECORDS OF THE SAFETY AND HEALTH ISSUES DISCUSSED DURING COMMITTEE  
2 MEETINGS; AND

3 (II) MAINTAIN THE WRITTEN RECORDS PREPARED UNDER ITEM  
4 (I) OF THIS ITEM FOR REVIEW BY THE COMMISSIONER DURING AN INSPECTION;

5 (3) (I) CONDUCT PERIODIC INSPECTIONS OF A WORKPLACE; AND

6 (II) REVIEW THE RESULTS OF THE PERIODIC SCHEDULED  
7 WORKPLACE INSPECTIONS;

8 (4) (I) REVIEW INVESTIGATIONS BY THE COMMISSIONER OF  
9 OCCUPATIONAL ACCIDENTS AND CAUSES OF INCIDENTS RESULTING IN INJURY,  
10 ILLNESS, OR EXPOSURE TO HAZARDOUS SUBSTANCES; AND

11 (II) SUBMIT SUGGESTIONS TO MANAGEMENT FOR THE  
12 PREVENTION OF FUTURE INCIDENTS;

13 (5) (I) REVIEW EMPLOYEE COMPLAINTS OF ALLEGED HAZARDOUS  
14 CONDITIONS BROUGHT TO THE ATTENTION OF THE COMMITTEE; AND

15 (II) WHEN DETERMINED NECESSARY BY THE COMMITTEE,  
16 CONDUCT AN INSPECTION AND INVESTIGATION TO ASSIST IN REMEDIAL SOLUTIONS;

17 (6) SUBMIT RECOMMENDATIONS TO ASSIST IN THE EVALUATION OF  
18 EMPLOYEE SAFETY SUGGESTIONS;

19 (7) AT THE REQUEST OF THE COMMISSIONER, VERIFY ABATEMENT  
20 ACTIONS TAKEN BY AN EMPLOYER IN RELATION TO CITATIONS ISSUED BY THE  
21 COMMISSIONER; AND

22 (8) ESTABLISH PROCEDURES FOR SHARING IDEAS WITH THE  
23 EMPLOYER CONCERNING:

24 (I) SAFETY INSPECTIONS;

25 (II) THE INVESTIGATION OF SAFETY INCIDENTS, ACCIDENTS,  
26 ILLNESSES, AND DEATHS;

27 (III) THE EVALUATION OF INJURY AND ILLNESS PREVENTION  
28 PROGRAMS; AND

29 (IV) THE ESTABLISHMENT OF TRAINING PROGRAMS TO ASSIST

1 COMMITTEE MEMBERS IN UNDERSTANDING WORKPLACE HAZARD PREVENTION AND  
2 CONTROL.

3 (C) AN EMPLOYEE ACTING IN THE EMPLOYEE'S ROLE AS A COMMITTEE  
4 MEMBER SHALL BE PAID THE EMPLOYEE'S REGULAR RATE OF PAY FOR TIME SPENT  
5 ON COMMITTEE ACTIVITIES.

6 (D) THE COMMITTEE SHALL:

7 (1) MAINTAIN ALL RECORDS REGARDING SAFETY AND HEALTH  
8 COMMITTEE ACTIVITIES; AND

9 (2) RETAIN ALL COMMITTEE RECORDS FOR AT LEAST 3 YEARS.

10 5-1303.

11 (A) (1) EACH EMPLOYER SHALL ESTABLISH, IMPLEMENT, AND MAINTAIN  
12 AN INJURY AND ILLNESS PREVENTION PROGRAM.

13 (2) AN EMPLOYER WITH 10 OR MORE EMPLOYEES SHALL ESTABLISH  
14 THE PROGRAM IN CONSULTATION WITH THE COMMITTEE.

15 (3) THE PROGRAM SHALL:

16 (I) BE ESTABLISHED IN WRITING IN A LANGUAGE THAT A  
17 MAJORITY OF THE EMPLOYEES OF THE EMPLOYER UNDERSTAND;

18 (II) IDENTIFY THE INDIVIDUALS WITH AUTHORITY AND  
19 RESPONSIBILITY FOR IMPLEMENTING THE PROGRAM;

20 (III) INCLUDE A PROCESS FOR ENSURING THAT EMPLOYEES  
21 COMPLY WITH SAFE AND HEALTHY WORK PRACTICES, INCLUDING:

22 1. RECOGNITION OF EMPLOYEES WHO FOLLOW SAFE  
23 AND HEALTHY WORK PRACTICES;

24 2. TRAINING AND RETRAINING PROGRAMS;

25 3. DISCIPLINARY ACTIONS; AND

26 4. ANY OTHER MEANS THAT ENSURE EMPLOYEE  
27 COMPLIANCE WITH SAFE AND HEALTHY WORK PRACTICES;

1           (IV) INCLUDE PROCESSES FOR COMMUNICATING WITH  
2 EMPLOYEES IN A FORM READILY UNDERSTANDABLE TO ALL EMPLOYEES OF THE  
3 EMPLOYER ON MATTERS RELATING TO OCCUPATIONAL SAFETY AND HEALTH,  
4 INCLUDING PROCESSES DESIGNED TO ENCOURAGE EMPLOYEES TO INFORM AN  
5 EMPLOYER, WITHOUT FEAR OF REPRISAL, OF HAZARDS ON A WORKSITE;

6           (V) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION,  
7 INCLUDE PERIODIC INSPECTIONS AND OTHER PROCEDURES FOR IDENTIFYING AND  
8 EVALUATING WORKPLACE HAZARDS;

9           (VI) INCLUDE METHODS OR PROCEDURES FOR CORRECTING  
10 UNSAFE AND UNHEALTHY WORKING CONDITIONS, WORK PRACTICES, AND WORK  
11 PROCEDURES IN A TIMELY MANNER, BASED ON SEVERITY; AND

12           (VII) PROVIDE TRAINING AND INSTRUCTION RELATING TO THE  
13 PROGRAM:

14                   1.     WHEN THE PROGRAM IS FIRST ESTABLISHED;

15                   2.     TO ALL NEW EMPLOYEES;

16                   3.     TO ALL EMPLOYEES GIVEN NEW JOB ASSIGNMENTS  
17 FOR WHICH TRAINING HAS NOT BEEN PREVIOUSLY RECEIVED;

18                   4.     WHEN NEW SUBSTANCES, PROCESSES, PROCEDURES,  
19 OR EQUIPMENT IS INTRODUCED TO THE WORKPLACE THAT MAY PRESENT A HAZARD;

20                   5.     WHEN AN EMPLOYER IS MADE AWARE OF A NEW OR  
21 PREVIOUSLY UNRECOGNIZED HAZARD; AND

22                   6.     FOR SUPERVISORS TO FAMILIARIZE THEMSELVES  
23 WITH THE HEALTH AND SAFETY HAZARDS TO WHICH EMPLOYEES UNDER THEIR  
24 IMMEDIATE DIRECTION AND CONTROL MAY BE EXPOSED.

25           (4) THE INSPECTIONS REQUIRED UNDER PARAGRAPH (3)(V) OF THIS  
26 SUBSECTION SHALL BE CONDUCTED:

27                   (I)    WHEN:

28                   1.     THE PROGRAM IS ESTABLISHED;

29                   2.     NEW SUBSTANCES, PROCESSES, PROCEDURES, OR  
30 EQUIPMENT THAT REPRESENTS A NEW OCCUPATIONAL HEALTH AND SAFETY

1 HAZARD IS INTRODUCED TO THE WORKPLACE; OR

2 3. AN EMPLOYER IS MADE AWARE OF A NEW OR  
3 PREVIOUSLY UNRECOGNIZED HAZARD; AND

4 (II) BY:

5 1. THE COMMITTEE, IF THE EMPLOYER IS REQUIRED TO  
6 ESTABLISH A COMMITTEE; OR

7 2. THE EMPLOYER.

8 (B) (1) THE COMMISSIONER, EACH EMPLOYEE OF THE EMPLOYER, A  
9 COLLECTIVE BARGAINING AGENT, AND MEMBERS OF THE PUBLIC HAVE THE RIGHT  
10 AND SHALL BE GIVEN THE OPPORTUNITY TO EXAMINE OR RECEIVE A COPY OF THE  
11 PROGRAM.

12 (2) WITHIN 2 BUSINESS DAYS AFTER A REQUEST IS MADE, THE  
13 EMPLOYER SHALL PROVIDE ACCESS TO, OR A COPY OF, THE PROGRAM AT NO COST  
14 TO THE PARTY MAKING THE REQUEST.

15 (C) (1) A COPY OF THE PROGRAM PROVIDED IN ACCORDANCE WITH  
16 SUBSECTION (B) OF THIS SECTION SHALL INCLUDE IMPLEMENTATION AND  
17 MAINTENANCE RECORDS OF THE PROGRAM.

18 (2) IMPLEMENTATION AND MAINTENANCE RECORDS SHALL  
19 INCLUDE:

20 (I) RECORDS OF THE PERIODIC SCHEDULED INSPECTIONS  
21 REQUIRED UNDER THIS SECTION TO IDENTIFY UNSAFE CONDITIONS AND WORK  
22 PRACTICES, THAT INCLUDE:

23 1. THE INDIVIDUALS CONDUCTING THE INSPECTIONS;

24 2. ANY UNSAFE CONDITIONS AND WORK PRACTICES  
25 THAT MAY HAVE BEEN IDENTIFIED; AND

26 3. ANY ACTION TAKEN TO CORRECT IDENTIFIED UNSAFE  
27 CONDITIONS AND WORK PRACTICES; AND

28 (II) DOCUMENTATION OF THE SAFETY AND HEALTH TRAINING  
29 REQUIRED UNDER THIS SECTION FOR EACH EMPLOYEE THAT INCLUDES:

- 1                   1.     THE NAME OF THE EMPLOYEE;
- 2                   2.     THE TRAINING DATES;
- 3                   3.     THE TYPE OF TRAINING PROVIDED ON EACH DATE;
- 4     AND
- 5                   4.     THE TRAINING PROVIDER.

6                   (3)    THE IMPLEMENTATION AND MAINTENANCE RECORDS REQUIRED

7     UNDER THIS SUBSECTION SHALL BE MAINTAINED FOR AT LEAST 3 YEARS.

8     5-1304.

9                   THIS SUBTITLE MAY NOT BE CONSTRUED TO DIMINISH THE COLLECTIVE

10    BARGAINING RIGHTS OF EMPLOYEES, INCLUDING THE RIGHT TO BARGAIN OVER

11    HEALTH AND SAFETY CONDITIONS AS A MANDATORY SUBJECT OF BARGAINING,

12    UNDER THE NATIONAL LABOR RELATIONS ACT, TITLE 3 OF THE STATE PERSONNEL

13    AND PENSIONS ARTICLE, OR OTHER APPLICABLE COLLECTIVE BARGAINING LAW.

14    5-1305.

15                  (A)    ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSIONER SHALL

16    ADOPT OR UPDATE REGULATIONS THAT ESTABLISH STANDARDS SPECIFIC TO

17    HAZARDS THAT CONTRIBUTE TO WORK-RELATED INJURIES AND ILLNESSES THAT

18    EXCEED THE AVERAGE INCIDENCE RATE OF ALL INDUSTRIES IN THE STATE DURING

19    THE IMMEDIATELY PRECEDING FISCAL YEAR.

20                  (B)    THE COMMISSIONER SHALL PUBLISH AND MAINTAIN ON THE WEBSITE

21    OF THE MARYLAND DEPARTMENT OF LABOR:

22                   (1)    DATA RELATING TO INCIDENTS OF WORK-RELATED INJURY AND

23    ILLNESS; AND

24                   (2)    THE AVERAGE RATE OF WORK-RELATED INJURY AND ILLNESS.

25                  (C)    ON OR BEFORE AUGUST 1 EACH YEAR, THE COMMISSIONER SHALL

26    REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE

27    STATE GOVERNMENT ARTICLE, DATA ON ALL WORK-RELATED INJURIES AND

28    ILLNESSES THAT EXCEED THE AVERAGE INCIDENCE RATE FOR ALL INDUSTRIES IN

29    THE STATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR.

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

1 1, 2021.