

SENATE BILL 848

K3
SB 641/20 – FIN

1lr1801

By: **Senators Benson and Lee**

Introduced and read first time: February 9, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Wage and Hour Law and Maryland Wage Payment and Collection**
3 **Law – Revisions**
4 **(Maryland Wage Protection Act)**

5 FOR the purpose of requiring that a certain summary that certain employers are required
6 to keep conspicuously posted in certain places of employment include certain
7 antiretaliation provisions; prohibiting certain employers from taking certain actions
8 under the Maryland Wage and Hour Law and the Maryland Wage Payment and
9 Collection Law; prohibiting certain employers from discriminating against certain
10 employees under certain circumstances; altering the conditions under which certain
11 employers are prohibited from taking adverse actions against certain employees
12 under certain circumstances; altering the list of acts that constitute adverse action
13 under a certain provision of law; prohibiting an individual, rather than an employee,
14 from making certain complaints to the Commissioner of Labor and Industry or
15 bringing certain actions or testifying in certain actions in bad faith; requiring that
16 the burden of proof as proved by clear and convincing evidence under certain actions
17 be on the defendant based on certain actions under certain circumstances;
18 establishing that a certain employer taking certain actions against an employee
19 within a certain time period creates a rebuttable presumption that the employer
20 retaliated against the employee under certain circumstances; authorizing the
21 Commissioner to conduct an investigation under the Maryland Wage and Hour Law
22 on the Commissioner's own initiative or on receipt of a certain complaint; requiring
23 that certain names be kept confidential except under certain circumstances;
24 authorizing the Commissioner to conduct an investigation under the Maryland Wage
25 Payment and Collection Law on the Commissioner's own initiative; authorizing a
26 certain employee to bring an action against an employer for a violation of certain
27 provisions of this Act; requiring that a certain action be filed within a certain period;
28 providing that a certain action may encompass certain violations; providing that a
29 certain limitation period does not apply during a certain investigation; requiring a
30 court to allow against a certain employer reasonable counsel fees and costs in a
31 certain action; establishing certain penalties against certain employers; authorizing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the Commissioner or a court to order certain civil penalties or certain relief under
 2 certain circumstances; requiring that certain civil penalties be paid to the General
 3 Fund of the State for certain purposes; providing that certain enforcement
 4 provisions, civil penalties, and remedies apply to violations of certain provisions of
 5 this Act in the same manner as certain other violations; altering the information that
 6 employers are required to give employees within a certain time of hiring and for each
 7 pay period; authorizing certain employees to recover certain liquidated damages
 8 under certain circumstances; defining certain terms; altering certain definitions;
 9 making clarifying and conforming changes; providing for the construction of certain
 10 provisions of law; and generally relating to employer requirements concerning
 11 prohibited employer conduct, wage records, wages, and paydays.

12 BY repealing and reenacting, with amendments,
 13 Article – Labor and Employment
 14 Section 3–103, 3–403(13) and (14), 3–423, 3–428, 3–504, 3–507.2(a) and (b), and
 15 3–508
 16 Annotated Code of Maryland
 17 (2016 Replacement Volume and 2020 Supplement)

18 BY adding to
 19 Article – Labor and Employment
 20 Section 3–403(15) and 3–501.1
 21 Annotated Code of Maryland
 22 (2016 Replacement Volume and 2020 Supplement)

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**

26 3–103.

27 (a) Except as otherwise provided in this section, the Commissioner may conduct
 28 an investigation to determine whether a provision of this title has been violated on the
 29 Commissioner’s own initiative or may require a written complaint.

30 (b) The Commissioner may conduct an investigation under Subtitle 3 of this title,
 31 on the Commissioner’s own initiative or on receipt of a written complaint of an employee.

32 **(C) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION UNDER**
 33 **SUBTITLE 4 OF THIS TITLE ON THE COMMISSIONER’S OWN INITIATIVE OR ON**
 34 **RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.**

35 **[(c) (D)** The Commissioner may conduct an investigation to determine whether
 36 Subtitle 5 of this title has been violated **ON THE COMMISSIONER’S OWN INITIATIVE OR**
 37 on receipt of a written complaint of an employee.

1 **[(d)] (E)** The Commissioner may conduct an investigation to determine whether
2 Subtitle 6 of this title has been violated on receipt of a written complaint of a sales
3 representative.

4 **[(e)] (F)** (1) The Commissioner may investigate whether § 3–701 of this title
5 has been violated on receipt of a written complaint of an applicant for employment.

6 (2) The Commissioner may investigate whether § 3–702 of this title has
7 been violated on receipt of a written complaint of an applicant for employment or an
8 employee.

9 (3) The Commissioner may investigate whether § 3–704 of this title has
10 been violated on receipt of a written complaint of an employee.

11 (4) The Commissioner may investigate whether § 3–710 of this title has
12 been violated on receipt of a written complaint of an employee as provided in § 3–710(d)(1)
13 of this title.

14 (5) The Commissioner may investigate whether § 3–711 of this title has
15 been violated on receipt of a written complaint of an employee as provided in § 3–711(d)(1)
16 of this title.

17 (6) The Commissioner may investigate whether § 3–712 of this title has
18 been violated on receipt of a written complaint of an employee or applicant.

19 **[(f)] (G)** (1) The Commissioner may investigate whether § 3–801 of this title
20 has been violated on receipt of a written complaint of an employee.

21 (2) The Commissioner may investigate whether § 3–802 of this title has
22 been violated on receipt of a written complaint of an employee.

23 **[(g)] (H)** The Commissioner may investigate whether Subtitle 9 of this title has
24 been violated:

25 (1) on the Commissioner’s own initiative;

26 (2) on receipt of a written complaint signed by the person submitting the
27 complaint; or

28 (3) on referral from another unit of State government.

29 **[(h)] (I)** The Commissioner may conduct an investigation to determine whether
30 Subtitle 10 of this title has been violated on receipt of a written complaint of an employee.

31 **[(i)] (J)** The Commissioner may conduct an investigation to determine whether

1 Subtitle 12 of this title has been violated on receipt of a written complaint of an employee.

2 ~~[(j)]~~ **(K)** The Commissioner may conduct an investigation to determine whether
 3 Subtitle 14 of this title has been violated on receipt of a written complaint of an applicant
 4 or employee.

5 ~~[(k)]~~ **(L)** The Commissioner, on the Commissioner's own initiative or on receipt
 6 of a written complaint, may conduct an investigation of whether a local minimum wage law
 7 has been violated.

8 ~~[(l)]~~ **(M)** (1) The Commissioner may conduct an investigation to determine
 9 whether Subtitle 13 of this title has been violated on receipt of a written complaint by an
 10 employee.

11 (2) To the extent practicable, the Commissioner shall keep confidential the
 12 identity of an employee who has filed a written complaint alleging a violation of Subtitle 13
 13 of this title unless the employee waives confidentiality.

14 3–403.

15 This subtitle does not apply to an individual who:

16 (13) is engaged principally in the range production of livestock; ~~[or]~~

17 (14) is employed as a hand-harvest laborer and is paid on a piece-rate basis
 18 in an operation that, in the region of employment, has been and customarily and generally
 19 is recognized as having been paid on that basis, if:

20 (i) the individual:

21 1. commutes daily from the permanent residence of the
 22 individual to the farm where the individual is employed; and

23 2. during the preceding calendar year, was employed in
 24 agriculture less than 13 weeks; or

25 (ii) the individual:

26 1. is under the age of 17;

27 2. is employed on the same farm as a parent of the individual
 28 or a person standing in the place of the parent; and

29 3. is paid at the same rate that an employee who is at least
 30 17 years old is paid on the same farm; **OR**

1 **(15) IS AN INDEPENDENT CONTRACTOR UNDER § 8-205 OF THIS**
2 **ARTICLE.**

3 3-423.

4 (a) On request by an employer, the Commissioner shall provide without charge a
5 copy of any summary or regulation to the employer.

6 (b) Each employer shall keep posted conspicuously in each place of employment:

7 (1) a summary of this subtitle that:

8 **(I)** the Commissioner approves; and

9 **(II) INCLUDES THE ANTIRETALIATION PROVISIONS UNDER §**
10 **3-428(B)(1)(III) OF THIS SUBTITLE; AND**

11 (2) a copy or summary of each regulation that is adopted to carry out this
12 subtitle.

13 3-428.

14 (a) **(1)** In this section[, “complaint”] **THE FOLLOWING WORDS HAVE THE**
15 **MEANINGS INDICATED.**

16 **(2)** **“COMPLAINT”** includes a written or oral complaint, claim, or assertion
17 of right by, **OR ON BEHALF OF**, an employee, regarding the payment of wages under this
18 subtitle, that is made to:

19 **[(1)] (I)** the employer or a supervisor, **A manager, [or] A foreman, OR AN**
20 **INDIVIDUAL WITH APPARENT AUTHORITY TO ALTER THE TERMS OR CONDITIONS OF**
21 **EMPLOYMENT OF THE EMPLOYEE** employed by the employer whether it is made through
22 the employer’s internal grievance process or otherwise; or

23 **[(2)] (II)** the Commissioner or an authorized representative of the
24 Commissioner.

25 **(3)** **“EMPLOYEE” INCLUDES AN INDIVIDUAL WHO WAS EMPLOYED BY**
26 **THE EMPLOYER WITHIN 3 YEARS BEFORE THE DATE OF THE COMPLAINT.**

27 (b) (1) An employer may not:

28 (i) pay or agree to pay less than the wage required under this
29 subtitle;

1 (ii) hinder or delay the Commissioner or an authorized
2 representative of the Commissioner in the enforcement of this subtitle;

3 (iii) take adverse action **OR OTHERWISE DISCRIMINATE** against an
4 employee because the employee:

5 1. makes, **HAS MADE, OR IS THE SUBJECT OF** a complaint:

6 **A.** that the employee has not been paid in accordance with
7 this subtitle; **OR**

8 **B. IN GOOD FAITH, THAT THE EMPLOYER ENGAGED IN**
9 **CONDUCT THAT VIOLATES ANY PROVISION OF THIS SUBTITLE;**

10 2. brings an action under this subtitle or a proceeding that
11 relates to the subject of this subtitle; [or]

12 3. has **PARTICIPATED**, testified, **OR IS PREPARING TO**
13 **TESTIFY** in an **INVESTIGATION OR** action under this subtitle or a proceeding related to
14 the subject of this subtitle; [or]

15 4. **ASSISTED ANOTHER EMPLOYEE IN MAKING A**
16 **COMPLAINT RELATED TO THE ALLEGED VIOLATIONS OF THIS SUBTITLE;**

17 5. **HAS BEEN INFORMED OR HAS INFORMED ANOTHER**
18 **EMPLOYEE OF THE RIGHTS PROVIDED UNDER THIS SUBTITLE; OR**

19 6. **OPPOSED ANY UNLAWFUL PRACTICE UNDER THIS**
20 **SUBTITLE;**

21 **(IV) TAKE ADVERSE ACTION OR OTHERWISE DISCRIMINATE**
22 **AGAINST AN EMPLOYEE BECAUSE THE EMPLOYER SUSPECTS OR BELIEVES THAT**
23 **THE EMPLOYEE MAY TAKE AN ACTION DESCRIBED IN ITEM (III) OF THIS PARAGRAPH;**
24 **OR**

25 **[(iv)] (v)** violate any other provision of this subtitle.

26 (2) Adverse action prohibited under paragraph (1) of this subsection
27 includes:

28 (i) discharge;

29 (ii) demotion;

30 **[(iii) threatening the employee with discharge or demotion; and]**

1 **(III) A REDUCTION IN WORK HOURS OR OTHER SCHEDULE**
2 **CHANGES THAT ARE LESS FAVORABLE TO THE EMPLOYEE;**

3 **(IV) REPORTING THE SUSPECTED CITIZENSHIP OR**
4 **IMMIGRATION STATUS OF AN EMPLOYEE, A FORMER EMPLOYEE, OR A FAMILY**
5 **MEMBER OF AN EMPLOYEE OR FORMER EMPLOYEE TO A FEDERAL, STATE, OR LOCAL**
6 **AGENCY BECAUSE THE EMPLOYEE EXERCISED OR ATTEMPTED TO EXERCISE A**
7 **RIGHT UNDER THIS SUBTITLE;**

8 **(V) THREATENING ANY OF THE ACTIONS DESCRIBED IN ITEMS**
9 **(I) THROUGH (IV) OF THIS PARAGRAPH; AND**

10 **[(iv)] (VI) any other retaliatory action OR THREATS OF ACTION**
11 **AGAINST AN EMPLOYEE OR ANOTHER INDIVIDUAL FOR EXERCISING OR ATTEMPTING**
12 **TO EXERCISE ANY RIGHT UNDER THIS SUBTITLE that [results in a change to the terms**
13 **or conditions of employment that] would dissuade a reasonable [employee] INDIVIDUAL**
14 **from making a complaint, bringing an action, or testifying in an action under this subtitle.**

15 (c) An [employee] **INDIVIDUAL** may not:

16 (1) make a groundless or malicious complaint to the Commissioner or an
17 authorized representative of the Commissioner;

18 (2) in bad faith, bring an action under this subtitle or a proceeding related
19 to the subject of this subtitle; or

20 (3) in bad faith, testify in an action under this subtitle or a proceeding
21 related to the subject of this subtitle.

22 (d) **(1)** A person who violates any provision of this section is guilty of a
23 misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

24 **[(e)] (2)** An employer may not be convicted under this section unless the
25 evidence demonstrates that the employer had knowledge of the relevant complaint,
26 testimony, or action for which the prosecution for retaliation is sought.

27 **(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,**
28 **IN ANY ACTION UNDER THIS SECTION, IF IT HAS BEEN DEMONSTRATED BY A**
29 **PREPONDERANCE OF THE EVIDENCE THAT AN ACTIVITY PROHIBITED UNDER**
30 **SUBSECTION (B) OF THIS SECTION WAS A CONTRIBUTING FACTOR IN THE ALLEGED**
31 **RETALIATION OR ADVERSE ACTION AGAINST AN INDIVIDUAL, THE BURDEN OF**
32 **PROOF SHALL BE ON THE DEFENDANT TO PROVE BY CLEAR AND CONVINCING**
33 **EVIDENCE THAT THE ALLEGED ADVERSE ACTION WOULD HAVE OCCURRED FOR**
34 **LEGITIMATE, NONDISCRIMINATORY REASONS EVEN IF THE EMPLOYEE HAD NOT**

1 ENGAGED IN THE PROTECTED ACTIVITY.

2 (4) FOR AN EMPLOYER THAT TAKES AN ADVERSE ACTION OR
3 OTHERWISE DISCRIMINATES AGAINST AN EMPLOYEE WITHIN 180 DAYS AFTER AN
4 EMPLOYEE ENGAGES IN THE PROTECTED ACTIVITIES DESCRIBED IN SUBSECTION
5 (B)(1)(III) OF THIS SECTION, IT IS PRESUMED THAT THE ADVERSE ACTION WAS
6 RETALIATION IN VIOLATION OF THIS SECTION AND MAY BE REBUTTED ONLY BY
7 CLEAR AND CONVINCING EVIDENCE THAT THE ADVERSE ACTION WOULD HAVE
8 OCCURRED FOR LEGITIMATE, NONDISCRIMINATORY REASONS EVEN IF THE
9 EMPLOYEE HAD NOT ENGAGED IN THE PROTECTED ACTIVITY.

10 (E) THE NAME OF THE EMPLOYEE OR ANOTHER PERSON IDENTIFIED IN THE
11 COMPLAINT OR AN INVESTIGATION BY THE COMMISSIONER UNDER THIS SECTION
12 SHALL BE KEPT CONFIDENTIAL UNLESS THE COMMISSIONER DETERMINES THAT
13 THE EMPLOYEE'S NAME BE DISCLOSED, WITH THE EMPLOYEE'S CONSENT, TO
14 FURTHER INVESTIGATE THE COMPLAINT.

15 (F) (1) (I) NOTWITHSTANDING § 3-103(C) OF THIS TITLE, IF AN
16 EMPLOYER'S ACTION VIOLATES SUBSECTION (B) OF THIS SECTION, AN AFFECTED
17 EMPLOYEE MAY BRING AN ACTION AGAINST AN EMPLOYER.

18 (II) AN EMPLOYEE MAY BRING AN ACTION ON BEHALF OF THE
19 EMPLOYEE AND OTHER EMPLOYEES SIMILARLY AFFECTED.

20 (2) EXCEPT AS PROVIDED UNDER PARAGRAPH (3) OF THIS
21 SUBSECTION, AN ACTION UNDER THIS SUBSECTION:

22 (I) SHALL BE FILED WITHIN 3 YEARS AFTER THE EMPLOYEE
23 KNEW OR SHOULD HAVE KNOWN OF THE EMPLOYER'S ACTION; AND

24 (II) MAY ENCOMPASS ALL VIOLATIONS THAT OCCURRED AS
25 PART OF A CONTINUING COURSE OF EMPLOYER CONDUCT REGARDLESS OF THE
26 DATE OF THE VIOLATION.

27 (3) THE LIMITATION PERIOD UNDER PARAGRAPH (2) OF THIS
28 SUBSECTION DOES NOT APPLY DURING AN INVESTIGATION UNDER § 3-103(C) OF
29 THIS TITLE.

30 (4) IF A COURT DETERMINES THAT AN EMPLOYEE IS ENTITLED TO
31 JUDGMENT IN AN ACTION UNDER THIS SUBSECTION, THE COURT SHALL ALLOW
32 AGAINST THE EMPLOYER REASONABLE COUNSEL FEES AND OTHER COSTS OF THE
33 ACTION.

1 **(G) (1) IF A PERSON IS FOUND TO HAVE VIOLATED SUBSECTION (B) OF**
2 **THIS SECTION, THE COMMISSIONER OR COURT SHALL REQUIRE THE PERSON TO PAY**
3 **THE GREATER OF:**

4 **(I) ACTUAL DAMAGES PLUS LIQUIDATED DAMAGES; OR**

5 **(II) \$500 FOR EACH DAY THAT THE VIOLATION CONTINUED.**

6 **(2) (I) IF AN EMPLOYER IS FOUND TO HAVE SUBSEQUENTLY**
7 **VIOLATED THE PROVISIONS OF THIS SUBTITLE WITHIN 6 YEARS AFTER A PREVIOUS**
8 **VIOLATION, THE COMMISSIONER OR COURT SHALL ASSESS AGAINST THE EMPLOYER**
9 **A CIVIL PENALTY OF NOT LESS THAN \$10,000.**

10 **(II) THE COMMISSIONER AND A COURT MAY ORDER**
11 **ADDITIONAL CIVIL PENALTIES AND ANY OTHER APPROPRIATE RELIEF FOR**
12 **VIOLATIONS OF THIS SUBTITLE.**

13 **(III) EACH CIVIL PENALTY ASSESSED UNDER THIS PARAGRAPH**
14 **SHALL BE PAID TO THE GENERAL FUND OF THE STATE TO OFFSET THE COST OF**
15 **FINANCING THE ENFORCEMENT OF THIS SUBTITLE.**

16 **3-501.1.**

17 **THIS SUBTITLE MAY NOT BE CONSTRUED TO CREATE ANY LEGAL RIGHT FOR**
18 **AN INDIVIDUAL WHO IS AN INDEPENDENT CONTRACTOR UNDER § 8-205 OF THIS**
19 **ARTICLE.**

20 **3-504.**

21 (a) An employer shall give to each employee:

22 (1) [at the time of hiring] **WITHIN 30 DAYS AFTER THE FIRST DAY OF**
23 **EMPLOYMENT, WRITTEN notice of:**

24 (i) the rate of pay of the employee;

25 **(II) WHETHER THE EMPLOYEE IS PAID BY:**

26 **1. THE HOUR;**

27 **2. THE SHIFT;**

28 **3. THE DAY;**

- 1 4. **THE WEEK;**
- 2 5. **SALARY;**
- 3 6. **THE PIECE;**
- 4 7. **COMMISSION; OR**
- 5 8. **ANY OTHER BASIS OF PAY;**

6 **(III) ALLOWANCES CLAIMED AS PART OF THE EMPLOYEE'S WAGE,**
 7 **INCLUDING:**

- 8 1. **TIP ALLOWANCES;**
- 9 2. **MEAL ALLOWANCES; AND**
- 10 3. **LODGING ALLOWANCES;**

11 **[(ii)] (IV) the regular paydays that the employer sets; [and**

12 **(iii)] (V) leave benefits;**

13 **(VI) THE NAME OF THE EMPLOYER;**

14 **(VII) THE PHYSICAL ADDRESS OF THE EMPLOYER'S MAIN OFFICE**
 15 **OR PRINCIPAL PLACE OF BUSINESS AND, IF DIFFERENT, THE MAILING ADDRESS OF**
 16 **THE EMPLOYER; AND**

17 **(VIII) THE TELEPHONE NUMBER OF THE EMPLOYER;**

18 (2) for each pay period[,]:

19 **(I) a statement of the gross earnings of the employee and deductions**
 20 **from those gross earnings; [and]**

21 **(II) THE DATES OF THE WORK COVERED BY THE PAYMENT OF**
 22 **WAGES FOR THE PAY PERIOD;**

23 **(III) THE NAME OF THE EMPLOYEE;**

24 **(IV) THE NAME OF THE EMPLOYER;**

25 **(V) THE ADDRESS AND TELEPHONE NUMBER OF THE**

1 **EMPLOYER;**

2 **(VI) THE RATE OR RATES OF PAY, INCLUDING WHETHER THE**
3 **RATE OF PAY IS BY:**

- 4 **1. THE HOUR;**
- 5 **2. THE SHIFT;**
- 6 **3. THE DAY;**
- 7 **4. THE WEEK;**
- 8 **5. SALARY;**
- 9 **6. THE PIECE;**
- 10 **7. COMMISSION; OR**
- 11 **8. ANY OTHER BASIS OF PAY;**

12 **(VII) A STATEMENT OF THE NET EARNINGS OF THE EMPLOYEE;**

13 **(VIII) ALLOWANCES CLAIMED AS PART OF THE EMPLOYEE'S WAGE,**
14 **INCLUDING:**

- 15 **1. TIP ALLOWANCES;**
- 16 **2. MEAL ALLOWANCES; AND**
- 17 **3. LODGING ALLOWANCES;**

18 **(IX) THE NUMBER OF HOURS WORKED PER WORKWEEK IN THE**
19 **PAY PERIOD; AND**

20 **(X) FOR EACH EMPLOYEE PAID AT A PIECE RATE, THE**
21 **APPLICABLE PIECE RATES OR PIECE RATES OF PAY AND THE NUMBER OF PIECES**
22 **COMPLETED AT EACH PIECE RATE; AND**

23 **(3) at least 1 pay period in advance, notice of any change in a payday or**
24 **wage.**

25 **(b) This section does not prohibit an employer from increasing a wage without**
26 **advance notice.**

1 3-507.2.

2 (a) (1) Notwithstanding any remedy available under § 3-507 of this subtitle,
3 if an employer fails to pay an employee in accordance with § 3-502 or § 3-505 of this
4 subtitle, after 2 weeks have elapsed from the date on which the employer is required to
5 have paid the wages, the employee may bring an action against the employer to recover the
6 unpaid wages.

7 (2) **NOTWITHSTANDING ANY REMEDY AVAILABLE UNDER § 3-507 OF**
8 **THIS SUBTITLE, IF AN EMPLOYEE FAILS TO MEET THE REQUIREMENTS OF §**
9 **3-504(A)(2) OF THIS SUBTITLE, THE EMPLOYEE MAY BRING AN ACTION AGAINST THE**
10 **EMPLOYER TO RECOVER LIQUIDATED DAMAGES OF \$100 FOR EACH PAY PERIOD**
11 **THAT A VIOLATION OCCURRED, NOT EXCEEDING \$2,500.**

12 (b) If, in an action under subsection (a) of this section, a court finds that an
13 employer withheld the wage of an employee in violation of this subtitle, [and not] **THE**
14 **COURT MAY AWARD THE EMPLOYEE:**

15 (1) **REASONABLE ATTORNEY'S FEES AND OTHER COSTS; AND**

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

19 3-508.

20 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
21 **INDICATED.**

22 (2) **"COMPLAINT" HAS THE MEANING STATED IN § 3-428 OF THIS**
23 **TITLE.**

24 (3) **"EMPLOYEE" INCLUDES AN INDIVIDUAL WHO WAS EMPLOYED BY**
25 **THE EMPLOYER WITHIN 3 YEARS BEFORE THE DATE OF THE COMPLAINT.**

26 [(a)] (B) (1) An employer may not:

27 (I) willfully violate this subtitle;

28 (II) **PAY OR AGREE TO PAY AN EMPLOYEE IN A MANNER THAT**
29 **VIOLATES THIS SUBTITLE;**

30 (III) **HINDER OR DELAY THE COMMISSIONER OR AN AUTHORIZED**

1 REPRESENTATIVE OF THE COMMISSIONER IN THE ENFORCEMENT OF THIS
2 SUBTITLE;

3 (IV) TAKE ADVERSE ACTION OR OTHERWISE DISCRIMINATE
4 AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE:

5 1. MAKES, HAS MADE, OR IS THE SUBJECT OF A
6 COMPLAINT:

7 A. THAT THE EMPLOYEE HAS NOT BEEN PAID IN
8 ACCORDANCE WITH THIS SUBTITLE; OR

9 B. IN GOOD FAITH, THAT THE EMPLOYER ENGAGED IN
10 CONDUCT THAT VIOLATES ANY PROVISION OF THIS SUBTITLE;

11 2. HAS PARTICIPATED OR TESTIFIED OR IS PREPARING
12 TO TESTIFY IN AN INVESTIGATION OR ACTION UNDER THIS SUBTITLE OR A
13 PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE;

14 3. ASSISTED ANOTHER EMPLOYEE IN MAKING A
15 COMPLAINT RELATED TO VIOLATIONS OF THIS SUBTITLE;

16 4. HAS BEEN INFORMED OR INFORMED ANOTHER
17 EMPLOYEE OF THE RIGHTS PROVIDED UNDER THIS SUBTITLE; OR

18 5. OPPOSED ANY UNLAWFUL PRACTICE UNDER THIS
19 SUBTITLE; OR

20 (V) TAKE ADVERSE ACTION OR OTHERWISE DISCRIMINATE
21 AGAINST AN EMPLOYEE BECAUSE THE EMPLOYER SUSPECTS OR BELIEVES THAT
22 THE EMPLOYEE MAY TAKE AN ACTION DESCRIBED IN ITEM (IV) OF THIS PARAGRAPH.

23 (2) ADVERSE ACTION PROHIBITED UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION INCLUDES:

25 (I) DISCHARGE;

26 (II) DEMOTION;

27 (III) A REDUCTION IN WORK HOURS OR OTHER SCHEDULE
28 CHANGES THAT ARE LESS FAVORABLE TO THE EMPLOYEE;

29 (IV) REPORTING THE SUSPECTED CITIZENSHIP OR

1 IMMIGRATION STATUS OF AN EMPLOYEE, A FORMER EMPLOYEE, OR A FAMILY
2 MEMBER OF AN EMPLOYEE OR FORMER EMPLOYEE TO A FEDERAL, STATE, OR LOCAL
3 AGENCY BECAUSE THE EMPLOYEE EXERCISED OR ATTEMPTED TO EXERCISE A
4 RIGHT UNDER THIS SUBTITLE;

5 (V) THREATENING ANY OF THE ACTIONS DESCRIBED IN ITEMS
6 (I) THROUGH (IV) OF THIS PARAGRAPH; AND

7 (VI) ANY OTHER RETALIATORY ACTION OR THREAT OF ACTION
8 AGAINST AN EMPLOYEE OR ANOTHER INDIVIDUAL FOR EXERCISING OR ATTEMPTING
9 TO EXERCISE ANY RIGHT UNDER THIS SUBTITLE THAT WOULD DISSUADE A
10 REASONABLE INDIVIDUAL FROM MAKING A COMPLAINT, BRINGING AN ACTION, OR
11 TESTIFYING IN AN ACTION UNDER THIS SUBTITLE.

12 [(b)] (C) An employee may not knowingly make to a governmental unit or official
13 of a governmental unit a false statement with respect to any investigation or proceeding
14 under this subtitle, with the intent that the governmental unit or official consider or
15 otherwise act in connection with the statement.

16 [(c)] (D) (1) (I) An employer who violates subsection [(a)] (B) of this
17 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
18 \$1,000.

19 (II) IN ADDITION TO SUBPARAGRAPH (I) OF THIS PARAGRAPH,
20 THE ENFORCEMENT PROVISIONS, CIVIL PENALTIES, AND REMEDIES PROVIDED
21 UNDER § 3-428 OF THIS TITLE APPLY TO VIOLATIONS OF SUBSECTION (B)(1) OF THIS
22 SECTION IN THE SAME MANNER AS VIOLATIONS OF § 3-428(B) OF THIS TITLE.

23 (III) EACH CIVIL PENALTY ASSESSED UNDER THIS PARAGRAPH
24 SHALL BE PAID TO THE GENERAL FUND OF THE STATE TO OFFSET THE COST OF
25 FINANCING THE ENFORCEMENT OF THIS SUBTITLE.

26 (2) An employee who violates subsection [(b)] (C) of this section is guilty of
27 a misdemeanor and on conviction is subject to a fine not exceeding \$500.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2021.