A BILL ENTITLED

AN ACT concerning

Employment Standards – Seating for Employees
(Right to Sit Act of 2022)

FOR the purpose of establishing requirements related to the provision of seating for employees by employers; establishing certain enforcement mechanisms, including by creating a private right of action; and generally relating to the provision of seating for employees by employers.

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 3–103(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

BY adding to

Article – Labor and Employment
Section 3–718
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

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

Article – Labor and Employment

3–103.

(a) Except as otherwise provided in this section, the Commissioner may conduct an investigation to determine whether a provision of this title has been violated on the Commissioner’s own initiative or may require a written complaint.
(A) (1) An employer that employs 15 or more employees:

   (I) shall provide a suitable seat for an employee if
       the nature of the work that the employee performs can reasonably be
       performed while seated; and

   (II) for a newly constructed facility or as part of a
       major renovation, may not design a workspace that requires an
       employee to stand while performing work if the workspace could
       reasonably be designed to allow the work to be performed while
       seated.

(2) An employer that employs 14 or fewer employees shall
   provide a suitable seat for each employee who requests a seat if:

   (I) the nature of the work that the employee
       performs can be performed while seated; and

   (II) the provision of a suitable seat would not cause an
       undue hardship to the employer.

(B) (1) The Commissioner shall adopt regulations to establish
       criteria for determining whether the nature of an employee’s work
       reasonably allows the employee to perform the work while seated.

(2) The criteria shall include:

   (I) whether the employee’s tasks can be performed
       while seated;

   (II) whether allowing an employee to sit would
       interfere with job performance;

   (III) whether the physical layout of the workspace is
       conducive to seating; and

   (IV) any other criteria that the Commissioner
       determines is appropriate.

(C) (1) If an employer does not provide an employee with
       seating as required under this section, the employee may bring an
ACTION AGAINST THE EMPLOYER TO RECOVER DAMAGES IN AN AMOUNT NOT TO EXCEED:

(I) FOR AN INITIAL VIOLATION, $100 PER PAY PERIOD; AND

(II) FOR A SUBSEQUENT VIOLATION, $200 PER PAY PERIOD.

(2) ON WRITTEN REQUEST OF AN EMPLOYEE WHO IS ENTITLED TO BRING AN ACTION UNDER THIS SECTION, THE COMMISSIONER MAY:

(I) TAKE AN ASSIGNMENT OF THE CLAIM IN TRUST FOR THE EMPLOYEE;

(II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION IN ACCORDANCE WITH THIS SECTION ON BEHALF OF THE EMPLOYEE; AND

(III) CONSOLIDATE TWO OR MORE CLAIMS AGAINST AN EMPLOYER.

(3) IF A COURT DETERMINES THAT AN EMPLOYEE IS ENTITLED TO RECOVERY IN AN ACTION UNDER THIS SECTION, THE COURT SHALL AWARD TO THE EMPLOYEE THE AMOUNT OF DAMAGES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.