

HOUSE BILL 33

C8, Q3

4lr0508

(PRE-FILED)

By: **Delegate J. Lewis**

Requested: August 28, 2023

Introduced and read first time: January 10, 2024

Assigned to: Ways and Means and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Entrepreneurial Leave Tax Credit Program**

3 FOR the purpose of establishing the Entrepreneurial Leave Tax Credit Program in the
4 Department of Commerce to encourage employers to implement certain
5 entrepreneurial leave policies and participate in the Program; allowing a credit
6 against the State income tax for certain employers who permit certain employees to
7 take a certain period of entrepreneurial leave; and generally relating to the
8 Entrepreneurial Leave Tax Credit Program.

9 BY repealing and reenacting, without amendments,
10 Article – Economic Development
11 Section 1–101(a), (c), and (e)
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2023 Supplement)

14 BY adding to
15 Article – Economic Development
16 Section 6–1101 through 6–1109 to be under the new subtitle “Subtitle 11.
17 Entrepreneurial Leave Tax Credit Program”
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2023 Supplement)

20 BY adding to
21 Article – Tax – General
22 Section 10–758
23 Annotated Code of Maryland
24 (2022 Replacement Volume and 2023 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Economic Development

1–101.

(a) In this division the following words have the meanings indicated.

(c) “Department” means the Department of Commerce.

(e) “Secretary” means the Secretary of Commerce.

SUBTITLE 11. ENTREPRENEURIAL LEAVE TAX CREDIT PROGRAM.**6–1101.**

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

(B) “EMPLOYEE” MEANS AN INDIVIDUAL WHO IS EMPLOYED BY AN EMPLOYER AND WHO WORKS, ON AVERAGE, AT LEAST 30 HOURS PER WEEK.

(C) “EMPLOYEE BUSINESS” MEANS THE CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, LIMITED LIABILITY COMPANY, JOINT VENTURE, PUBLIC BENEFIT CORPORATION, NONPROFIT ENTITY, OR SIMILAR PRIVATE ENTITY OF AN EMPLOYEE THROUGH WHICH COMMERCIAL ACTIVITY IS CONDUCTED.

(D) “EMPLOYER” MEANS AN INDIVIDUAL, A CORPORATION, A PARTNERSHIP, A SOLE PROPRIETORSHIP, A LIMITED LIABILITY COMPANY, A JOINT VENTURE, A PUBLIC BENEFIT CORPORATION, A NONPROFIT ENTITY, OR A SIMILAR PRIVATE ENTITY THAT HAS AT LEAST ONE EMPLOYEE.

(E) “ENTREPRENEURIAL LEAVE” MEANS UNPAID LEAVE THAT AN EMPLOYEE TAKES IN ACCORDANCE WITH THE ENTREPRENEURIAL LEAVE POLICY OF AN EMPLOYER FOR THE PURPOSE OF ESTABLISHING OR EXPANDING AN EMPLOYEE BUSINESS.

(F) “PROGRAM” MEANS THE ENTREPRENEURIAL LEAVE TAX CREDIT PROGRAM ESTABLISHED UNDER § 6–1102 OF THIS SUBTITLE.

(G) “QUALIFIED EMPLOYER” MEANS AN EMPLOYER THAT IS CERTIFIED BY THE DEPARTMENT AS QUALIFYING FOR A TAX CREDIT UNDER THE PROGRAM.

(H) “TAX CREDIT” MEANS THE CREDIT AGAINST INCOME TAX THAT AN EMPLOYER MAY CLAIM IN ACCORDANCE WITH § 6–1105 OF THIS SUBTITLE.

1 **6-1102.**

2 (A) **THERE IS AN ENTREPRENEURIAL LEAVE TAX CREDIT PROGRAM IN THE**
3 **DEPARTMENT.**

4 (B) **THE PURPOSE OF THE PROGRAM IS TO ENCOURAGE EMPLOYERS TO**
5 **IMPLEMENT LEAVE POLICIES THAT PROVIDE UNPAID LEAVE FOR EMPLOYEES FOR**
6 **THE PURPOSE OF ESTABLISHING OR EXPANDING AN EMPLOYEE BUSINESS IN THE**
7 **STATE.**

8 **6-1103.**

9 (A) **THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.**

10 (B) **THE DEPARTMENT SHALL:**

11 (1) **PROMOTE ENTREPRENEURIAL LEAVE POLICIES AND THE**
12 **PROGRAM TO EMPLOYERS ACROSS THE STATE;**

13 (2) **CONDUCT RESEARCH ON THE BENEFITS OF ENTREPRENEURSHIP,**
14 **THE CREATION OF ENTREPRENEURIAL LEAVE POLICIES BY EMPLOYERS, AND THE**
15 **UTILIZATION OF ENTREPRENEURIAL LEAVE BY EMPLOYEES;**

16 (3) **PROVIDE BUSINESS SUPPORT AND RESOURCES TO EMPLOYEES**
17 **WHO TAKE ENTREPRENEURIAL LEAVE THROUGH THE PROGRAM; AND**

18 (4) **FACILITATE DISCUSSIONS AND PROVIDE EDUCATIONAL**
19 **RESOURCES FOR EMPLOYERS REGARDING THE PROGRAM.**

20 **6-1104.**

21 (A) **TO QUALIFY FOR A TAX CREDIT, AN EMPLOYER SHALL BE CERTIFIED BY**
22 **THE SECRETARY AS MEETING THE REQUIREMENTS OF THIS SUBTITLE AND AS BEING**
23 **ELIGIBLE FOR THE TAX CREDIT.**

24 (B) (1) **AN EMPLOYER SHALL BE ELIGIBLE TO RECEIVE A TAX CREDIT IF:**

25 (I) **THE EMPLOYER PERMITS AT LEAST ONE EMPLOYEE TO**
26 **TAKE AT LEAST 6 MONTHS OF ENTREPRENEURIAL LEAVE, SUBJECT TO PARAGRAPH**
27 **(2) OF THIS SUBSECTION, FOR THE PURPOSE OF ESTABLISHING AN EMPLOYEE**
28 **BUSINESS OR EXPANDING AN EMPLOYEE BUSINESS THAT THE EMPLOYEE HAS AN**
29 **OWNERSHIP INTEREST IN;**

1 (II) THE EMPLOYEE BUSINESS WILL HAVE ITS PRINCIPAL
2 BUSINESS OPERATIONS LOCATED IN THE STATE;

3 (III) THE EMPLOYER IS IN GOOD STANDING WITH EACH STATE
4 REGULATORY AUTHORITY WITH JURISDICTION OVER THE BUSINESS OF THE
5 EMPLOYER, INCLUDING THE STATE DEPARTMENT OF ASSESSMENTS AND
6 TAXATION; AND

7 (IV) THE EMPLOYER COMPLIES WITH ANY OTHER
8 REQUIREMENTS THAT THE SECRETARY CONSIDERS NECESSARY.

9 (2) IF AN EMPLOYEE REQUIRES LESS THAN 6 MONTHS OF
10 ENTREPRENEURIAL LEAVE, AN EMPLOYER SHALL REMAIN ELIGIBLE FOR A TAX
11 CREDIT THROUGH THE PROGRAM.

12 (C) AN EMPLOYER IS NOT ELIGIBLE TO RECEIVE A TAX CREDIT UNDER THIS
13 SUBTITLE IF:

14 (1) THE EMPLOYER IMPOSES OR THREATENS TO IMPOSE ANY
15 PUNITIVE MEASURES BECAUSE AN EMPLOYEE TAKES ENTREPRENEURIAL LEAVE;

16 (2) ENTREPRENEURIAL LEAVE FOR AN EMPLOYEE BEGAN BEFORE
17 THE EMPLOYER SUBMITTED THE TAX CREDIT APPLICATION UNDER SUBSECTION (D)
18 OF THIS SECTION;

19 (3) AN EMPLOYEE OR THE EMPLOYER DOES NOT REASONABLY
20 ADHERE TO THE AGREED STIPULATIONS IN THE TAX CREDIT APPLICATION UNDER
21 SUBSECTION (D) OF THIS SECTION; OR

22 (4) THERE IS ANY OTHER REASON THAT AN EMPLOYEE IS TAKING
23 UNPAID LEAVE, SUCH AS A DISCIPLINARY MEASURE.

24 (D) (1) TO BE CERTIFIED AS A QUALIFIED EMPLOYER FOR A TAX CREDIT,
25 AN EMPLOYER SHALL SUBMIT TO THE SECRETARY AN APPLICATION THAT
26 SPECIFIES:

27 (I) THE DETAILS OF THE EMPLOYER'S ENTREPRENEURIAL
28 LEAVE POLICY;

29 (II) THE PURPOSE OF THE ENTREPRENEURIAL LEAVE;

30 (III) THE DURATION OF THE ENTREPRENEURIAL LEAVE;

1 (IV) WHETHER THE EMPLOYEE TAKING ENTREPRENEURIAL
2 LEAVE WILL BE:

3 1. ESTABLISHING AN EMPLOYEE BUSINESS; OR

4 2. EXPANDING AN EXISTING EMPLOYEE BUSINESS THAT
5 THE EMPLOYEE HAS AN OWNERSHIP INTEREST IN;

6 (V) THE NAME AND PURPOSE OF THE EMPLOYEE BUSINESS; AND

7 (VI) ANY OTHER INFORMATION THAT THE SECRETARY
8 REQUIRES.

9 (2) AN APPLICATION SUBMITTED TO THE SECRETARY UNDER
10 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SIGNED BY:

11 (I) A SENIOR OFFICER OF THE EMPLOYER WHO IS CAPABLE OF
12 MAKING PERSONNEL DECISIONS; AND

13 (II) THE EMPLOYEE TAKING THE ENTREPRENEURIAL LEAVE.

14 (3) (I) THE APPLICATION SHALL BE MADE ON A FORM PROVIDED
15 BY THE SECRETARY.

16 (II) IF MULTIPLE EMPLOYEES OF AN EMPLOYER ARE TAKING
17 ENTREPRENEURIAL LEAVE, ONLY ONE APPLICATION CONTAINING ALL OF THE
18 INFORMATION REQUIRED IN THIS SUBSECTION IS NECESSARY.

19 (E) THE SECRETARY SHALL:

20 (1) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX CREDIT
21 CERTIFICATE UNDER THIS SECTION ON A FIRST-COME, FIRST-SERVED BASIS; AND

22 (2) NOTIFY AN EMPLOYER WITHIN 60 DAYS AFTER RECEIPT OF THE
23 EMPLOYER'S APPLICATION OF ITS APPROVAL OR DENIAL.

24 (F) IN ACCORDANCE WITH § 6-1105 OF THIS SUBTITLE, THE SECRETARY
25 MAY NOT ACCEPT APPLICATIONS IF THE DEPARTMENT HAS CERTIFIED THE
26 MAXIMUM AMOUNT OF TAX CREDITS PERMITTED IN THE CURRENT TAXABLE YEAR.

27 6-1105.

1 (A) A QUALIFIED EMPLOYER MAY CLAIM A CREDIT AGAINST THE STATE
2 INCOME TAX EQUAL TO THE AMOUNT STATED IN THE FINAL TAX CREDIT
3 CERTIFICATE ISSUED IN ACCORDANCE WITH THIS SECTION.

4 (B) THE AMOUNT OF THE TAX CREDIT THAT A QUALIFIED EMPLOYER MAY
5 CLAIM UNDER THIS SECTION SHALL BE DETERMINED BY THE DEPARTMENT BASED
6 ON:

7 (1) THE DURATION OF THE ENTREPRENEURIAL LEAVE THAT AN
8 EMPLOYEE IS PERMITTED TO TAKE BY THE EMPLOYER;

9 (2) THE NUMBER OF EMPLOYEES THAT TAKE ENTREPRENEURIAL
10 LEAVE OFFERED BY AN EMPLOYER;

11 (3) THE ADHERENCE OF THE EMPLOYEE AND THE EMPLOYER TO THE
12 STIPULATIONS IN THE TAX CREDIT APPLICATION UNDER § 6-1104 OF THIS
13 SUBTITLE; AND

14 (4) ANY OTHER FACTORS THAT THE DEPARTMENT DETERMINES
15 NECESSARY.

16 (C) THE DEPARTMENT SHALL ISSUE A FINAL TAX CREDIT CERTIFICATE
17 THAT STATES THE AMOUNT OF THE TAX CREDIT FOR WHICH THE QUALIFIED
18 EMPLOYER IS ELIGIBLE.

19 (D) A QUALIFIED EMPLOYER SHALL SUBMIT TO THE COMPTROLLER, WITH
20 THE TAX RETURN ON WHICH THE CREDIT IS CLAIMED, CERTIFICATION FROM THE
21 DEPARTMENT THAT THE EMPLOYER HAS MET THE REQUIREMENTS OF THIS
22 SUBTITLE AND IS ELIGIBLE FOR THE TAX CREDIT IN THE AMOUNT CERTIFIED BY THE
23 DEPARTMENT.

24 (E) THE DEPARTMENT MAY NOT ISSUE FINAL TAX CREDIT CERTIFICATES
25 FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN \$250,000 IN A
26 TAXABLE YEAR.

27 (F) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
28 YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE QUALIFIED EMPLOYER
29 FOR THAT TAXABLE YEAR, THE UNUSED AMOUNT OF A TAX CREDIT MAY NOT BE
30 CARRIED OVER TO ANY OTHER TAXABLE YEAR.

31 6-1106.

1 **(A) THE DEPARTMENT MAY REVOKE A TAX CREDIT CERTIFICATE ISSUED**
2 **UNDER THIS SUBTITLE, IN WHOLE OR IN PART, IF ANY REPRESENTATION MADE BY A**
3 **QUALIFIED EMPLOYER IS DETERMINED BY THE DEPARTMENT TO HAVE BEEN FALSE**
4 **WHEN MADE.**

5 **(B) IF THE DEPARTMENT REVOKES A TAX CREDIT CERTIFICATE AS**
6 **PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE COMPTROLLER MAY**
7 **MAKE AN ASSESSMENT AGAINST THE QUALIFIED EMPLOYER TO RECAPTURE ANY**
8 **AMOUNT OF A TAX CREDIT OR ANY OTHER BENEFIT THAT THE QUALIFIED EMPLOYER**
9 **HAS RECEIVED.**

10 **6-1107.**

11 **(A) BY CLAIMING A TAX CREDIT UNDER THIS SUBTITLE, THE QUALIFIED**
12 **EMPLOYER AUTHORIZES THE COMPTROLLER TO SHARE WITH THE DEPARTMENT**
13 **ANY INFORMATION RECEIVED FROM A QUALIFIED EMPLOYER ABOUT ELIGIBILITY**
14 **FOR THE TAX CREDIT.**

15 **(B) INFORMATION THAT IS RECEIVED UNDER SUBSECTION (A) OF THIS**
16 **SECTION IS SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS THAT APPLY TO**
17 **THE COMPTROLLER.**

18 **6-1108.**

19 **ON AN ANNUAL BASIS AND IN ACCORDANCE WITH THE REPORTING**
20 **REQUIREMENTS IN § 2.5-109(D)(3) OF THIS ARTICLE, THE DEPARTMENT SHALL**
21 **REPORT ON:**

22 **(1) THE NUMBER OF EMPLOYERS SUBMITTING APPLICATIONS TO BE**
23 **CERTIFIED AS A QUALIFIED EMPLOYER UNDER § 6-1104 OF THIS SUBTITLE;**

24 **(2) THE NUMBER OF QUALIFIED EMPLOYERS THAT CLAIM A TAX**
25 **CREDIT UNDER THIS SUBTITLE;**

26 **(3) THE IMPACT OF THE PROGRAM;**

27 **(4) THE NUMBER OF EMPLOYEES THAT TAKE ENTREPRENEURIAL**
28 **LEAVE THROUGH AN EMPLOYER AND THE TYPE OF EMPLOYEE BUSINESSES THAT**
29 **ARE CREATED OR EXPANDED BY EMPLOYEES;**

30 **(5) WHETHER AN EMPLOYEE CONTINUES EMPLOYMENT WITH AN**
31 **EMPLOYER FOLLOWING ENTREPRENEURIAL LEAVE OR TERMINATES EMPLOYMENT**
32 **TO WORK FULL-TIME ON THE EMPLOYEE BUSINESS;**

