HOUSE BILL 582

5lr1931

By: **Delegates Vogel, Boafo, and Stewart** Introduced and read first time: January 23, 2025 Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

Labor and Employment – Exemptions From Overtime Pay – Administrative, Executive, or Professional Capacity

FOR the purpose of altering the exemption from overtime pay for individuals who are employed to work in an administrative, executive, or professional capacity; and generally relating to exemptions from overtime pay.

- 7 BY repealing and reenacting, with amendments,
- 8 Article Labor and Employment
- 9 Section 3–403
- 10 Annotated Code of Maryland
- 11 (2016 Replacement Volume and 2024 Supplement)

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

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Article – Labor and Employment

- 15 3-403.
- 16 This subtitle does not apply to an individual [who]:
- 17 [(1) is employed in a capacity that the Commissioner defines, by regulation,
 18 to be administrative, executive, or professional;]

19 (1) (I) WHO IS COMPENSATED ON A SALARY BASIS, AS DEFINED IN 20 29 C.F.R. § 541.602, OR A FEE BASIS, AS DEFINED IN 29 C.F.R. § 541.605, AT NOT 21 LESS THAN:

22 **1.** \$1,128 PER WEEK; OR

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.



2. IF HIGHER, THE AMOUNT ESTABLISHED IN 29 C.F.R. § 541.600; AND **(II)** 1. WHOSE PRIMARY DUTY: A. IS THE PERFORMANCE OF OFFICE OR NONMANUAL WORK DIRECTLY RELATED TO THE MANAGEMENT OR GENERAL BUSINESS **OPERATIONS OF THE EMPLOYER OR THE EMPLOYER'S CUSTOMERS; AND B**. INCLUDES THE EXERCISE OF DISCRETION AND **INDEPENDENT JUDGMENT WITH RESPECT TO MATTERS OF SIGNIFICANCE;** 2. A. WHOSE PRIMARY DUTY IS MANAGEMENT OF THE ENTERPRISE IN WHICH THE EMPLOYEE IS EMPLOYED OR OF A CUSTOMARILY **RECOGNIZED DEPARTMENT OR SUBDIVISION OF THE ENTERPRISE;** Β. WHO CUSTOMARILY AND REGULARLY DIRECTS THE WORK OF TWO OR MORE OTHER EMPLOYEES; AND C. WHO HAS THE AUTHORITY TO HIRE OR FIRE OTHER EMPLOYEES OR WHOSE SUGGESTIONS AND RECOMMENDATIONS AS TO THE HIRING, FIRING, ADVANCEMENT, PROMOTION, OR ANY OTHER CHANGE OF STATUS OF OTHER **EMPLOYEES ARE GIVEN PARTICULAR WEIGHT; OR** 3. WHOSE PRIMARY DUTY IS THE PERFORMANCE OF WORK REQUIRING: A. KNOWLEDGE OF AN ADVANCED TYPE IN A FIELD OF SCIENCE OR LEARNING CUSTOMARILY ACQUIRED BY A PROLONGED COURSE OF SPECIALIZED INTELLECTUAL INSTRUCTION; OR **B**. INVENTION, IMAGINATION, ORIGINALITY, OR TALENT IN A RECOGNIZED FIELD OF ARTISTIC OR CREATIVE ENDEAVOR; (2)WHO is employed in a nonadministrative capacity at an organized camp, including a resident or day camp; WHO is under the age of 16 years and is employed no more than 20 (3)hours in a week: WHO is employed as an outside salesman; (4)

30 (5)WHO is compensated on a commission basis;

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1 (6) **WHO** is a child, parent, spouse, or other member of the immediate 2 family of the employer;

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(7) **WHO** is employed in a drive–in theater;

4 (8) WHO is employed as part of the training in a special education program 5 for emotionally, mentally, or physically handicapped students under a public school system;

6 (9) WHO is employed by an employer who is engaged in canning, freezing, 7 packing, or first processing of perishable or seasonal fresh fruits, vegetables, or 8 horticultural commodities, poultry, or seafood;

9 (10) **WHO** engages in the activities of a charitable, educational, nonprofit, or 10 religious organization if:

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(i) the service is provided gratuitously; and

12 (ii) there is, in fact, no employer–employee relationship;

13 (11) **WHO** is employed in a cafe, drive-in, drugstore, restaurant, tavern, or 14 other similar establishment that:

15 (i) sells food and drink for consumption on the premises; and

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(ii) has an annual gross income of \$400,000 or less;

(12) WHO is employed in agriculture if, during each quarter of the preceding
 calendar year, the employer used no more than 500 agricultural–worker days;

19 (13) WHO is engaged principally in the range production of livestock;

20 (14) WHO is employed as a hand-harvest laborer and is paid on a piece-rate 21 basis in an operation that, in the region of employment, has been and customarily and 22 generally is recognized as having been paid on that basis, if:

23 (i) the individual:

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

26 2. during the preceding calendar year, was employed in 27 agriculture less than 13 weeks; or

28 (ii) the individual:

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1	1. is under the age of 17;
$2 \\ 3$	2. is employed on the same farm as a parent of the individual or a person standing in the place of the parent; and
4 5	3. is paid at the same rate that an employee who is at least 17 years old is paid on the same farm;
6	(15) WHO is a covered employee under the Secure Maryland Wage Act; or
7 8	(16) (i) WHO has entered into a contract to play baseball at the minor league level; and
9 10 11	(ii) WHO is compensated in accordance with the terms of a collective bargaining agreement that expressly states the wages and working conditions of employees.
$\begin{array}{c} 12 \\ 13 \end{array}$	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.