



SB 404
Labor and Employment – Maryland Healthy Working Families Act - Verification
Finance Committee
Position: Favorable

Maryland AGC, the Maryland Chapter of the Associated General Contractors of America, provides professional education, business development, and advocacy for commercial construction companies and vendors, both open shop and union. AGC of America is the nation’s largest and oldest trade association for the construction industry. AGC of America represents more than 26,000 firms, including over 6,500 of America’s leading general contractors, and over 9,000 specialty-contracting firms, all through a nationwide network of chapters. Maryland AGC supports SB 404 and respectfully urges the bill be given a favorable report.

SB 404 clarifies existing provisions in the Healthy Working Families Act dealing with employers’ right to ask for verification of the reason for a request for leave in a very limited number of circumstances. SB 404 deals with one situation only: a request for leave between an employee’s first 107th and 120th calendar day of employment. Current law is ambiguous in referring to a supposed mutual agreement between employer and employee pertaining to a request for verification during that time period but provides no practicable means of documenting the supposed agreement.

As the old saying goes, oral agreements aren’t worth the paper they’re printed on. Unfortunately, current law leaves employees and employers in precisely that situation with no tangible way to prove the supposed agreement one way or the other. SB 404 cures that defect by putting the burden on the employer to provide the employee with written notice about the need to provide verification at the time the employee is first hired.

Section 3-1302 of the Healthy Working Families Act states explicitly that nothing in the Act shall be construed to “prohibit an employer from adopting and enforcing a policy that prohibits the improper use of earned sick and safe leave.” The General Assembly recognized that some employees may, out of misunderstanding or deceit, try to use leave inappropriately. The particular circumstance of a request falling between the 107th and 120th day deserves some attention because no leave can be taken until the 107th day, as provided under §13-1304(c)(4). At the highest accrual rate of 1 hour for every 30 hours worked, a new employee is unlikely to have accumulated more than 3 hours of eligible leave. Since a new employee would have had at least 3 months written notice of the need for verification, it is not unreasonable to give the employer the right to deny leave absent verification. Note that the bill provides the employer MAY deny the request, so that some employers will allow the leave despite the lack of verification if that is their best business judgment.

Accordingly, Maryland AGC respectfully urges the Committee to give SB 404 a favorable report.

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