

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Finance Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 107
Labor and Employment – Secure Maryland Wage Act
DATE: January 21, 2021
(1/28)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 107, as drafted. This bill pertains to wages paid to a “covered employee” who works at a “Heightened Security Interest Location.” A “covered employee” is defined in the bill as any individual employed to perform work at a Heightened Security Interested Location who is a nonexempt employee under the Fair Labor Standards Act. A “Heightened Security Interest Location” is defined in the bill as 1) Baltimore-Washington International Thurgood Marshall Airport, 2) Pennsylvania Station in Baltimore, or 3) the Port of Baltimore.

Although the Judiciary has no position on the policy aims of this legislation, the Judiciary has concerns about the lack of procedural guidance in the bill for the court in the handling of actions filed pursuant to § 3-1508 of the bill to modify or set aside regulations or orders issued by the Commissioner of Labor and Industry. In addition, certain aggrieved employee challenges regarding wages may be a type of dispute that is more appropriately handled initially by the Office of Administrative Hearings rather than by a court.

In addition, wording in several provisions of the bill could be modified to help ensure clarity and proper application of the law. First, in § 3-1501(f), the bill defines “Wage” to mean “all compensation that is due to an employee for employment,” but the word “compensation” is not defined in the bill. This may cause confusion about whether “compensation” includes only money or whether other benefits are also included. Second, in § 3-1503(a) and § 3-1504(b), the bill uses the word “workweek” but does not provide a definition or cross-reference to a definition given elsewhere by law. Third, § 3-1509(d)(1)(ii) discusses “reasonable counsel fees” but § 3-1509(a)(3) mentions “counsel fees” without including the word “reasonable.” Therefore, modifying § 3-1509(a)(3) to specify “reasonable counsel fees” would enhance consistency. Fourth, § 3-1510 allows an employee to file a complaint with their employer or with the Commissioner, and § 3-1510(b)(1)(iii) prohibits adverse action against an employee based on an employee’s

filing of a complaint, but the statute does not address whether an employer must be notified of a complaint filed with the Commissioner rather than with the employer.

cc. Hon. Antonio Hayes
Judicial Council
Legislative Committee
Kelley O'Connor