

## Letter of Support

### SB 233 - Employment Standards, Prevailing Wage, and Living Wage - Employer Adverse Actions - Prohibition

Dear Chair Beidle, Vice-Chair Klausmeier, and Members of the Finance Committee:

The Division of Labor & Industry is responsible for enforcing Maryland’s workplace standards, including child labor protections and wage and hour laws. Our effective enforcement of Maryland’s workplace standards depends, in great measure, on the ability of workers to report potential violations of those standards and cooperate in our investigations, free of fear that they will be fired or face other adverse employment consequences for doing so.

As the **chart of existing anti-retaliation provisions** below shows, some of Maryland’s current workplace laws do not prohibit retaliation at all. Others do, but the scope of protection, processes, and remedies vary statute by statute. Only one - the prevailing wage law – provides for full enforcement through the administrative process.

Article/Title	Sub title	Name	Anti-retaliation provision	Enforcement Process
Article: L& E, Title III	2	Minor Labor	None	N/A
Article: L& E, Title III	3	Equal Pay	3-308(a)(4)	Civil action by Commissioner only (3-308(c))
Article: L& E, Title III	4	Wage & Hour	3-428(b)	Criminal misdemeanor subject to fine up to \$1,000 (3-428(d))
Article: L& E, Title III	5	Wage Payment & Collection	None	N/A
Article: L& E, Title III	9	Workplace Fraud	3-912	Civil action by Commissioner only (3-912(c)(3))
Article: State Finance & Procurement, Title II	17	Prevailing Wage	17-224(h) & (i)	Administrative process by Commissioner (17-224(a)(3)-(5)) and direct civil lawsuit by employee (17-224(i))
Article: State Finance & Procurement, Title II	18	Living Wage	None	N/A

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This bill is aimed at two things: first, providing protection for retaliation under all of our laws, and, second, providing the option of pursuing a retaliation claim through an administrative process from beginning to end, thereby reducing litigation costs and the delays of judicial proceedings.

Based on input from stakeholders, and discussions with the members of the House Subcommittee on Business Regulation following the hearing on the cross-filed bill, the Department will be seeking certain amendments to this bill to better achieve these goals. First, we seek to apply these protections to Subtitle 2 (Employment of Minors) and Subtitle 5 (Wage Payment and Collection), as well as to the other laws. Second, we seek to ensure a single administrative process for handling retaliation claims under any of these laws (with the exception of prevailing wage, which already has an administrative process). A single process would require repeal of the existing separate (and differing) anti-retaliation measures in the Wage and Hour law, the Equal Pay law, and the Workplace Fraud Law. Finally, to acknowledge and address the burdens on businesses who must defend against bad faith, frivolous complaints, we seek to add a provision allowing an employer to pursue an administrative claim and sanctions for such complaints.

Transparency will result in greater knowledge of the law, greater compliance with the law, and efficient processing and resolution of claims. Violations are more likely to be reported, reported promptly, and remedied promptly. MDOL staff, as well as stakeholders, will have a single process for enforcement, instead of multiple different schemes, which will achieve greater and more efficient compliance with our workplace standards laws.

The Department respectfully requests a **favorable with amendments report** by the Committee on SB 233.

For questions, please contact [andrew.fulginiti@maryland.gov](mailto:andrew.fulginiti@maryland.gov).