

## Letter of Support

### HB 136 - 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 to cooperate in our investigations, free of fear that they will be fired or face other adverse employment consequences for doing so.

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.

As the **chart of existing anti-retaliation provisions** below shows, several of the Maryland workplace laws covered by this bill 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 an administrative process.)

Article/Title	Subti tle	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	18	Living Wage	None	N/A

This bill was originally cross-filed and heard by this Committee as SB 233. However, as passed by the House, the bill now includes two major amendments, both of which are designed to permit the bill to more efficiently and fairly achieve its goals:

1. **Recourse against frivolous/bad faith claims.** The bill, as amended in the House, expressly prohibits frivolous or bad faith complaints of retaliation, and provides recourse through an administrative process that may result in imposition of a penalty, as well as payment of attorneys' fees incurred in defense of a bad faith claim. (See page 5, lines 3-19).
2. **Removal of existing anti-retaliation provisions to ensure a uniform administrative process and set of remedies for retaliation claims.** The Department's original bill sought a uniform process, but did not repeal the provisions related to anti-retaliation that already existed in the covered statutes (see table above). The bill, as amended in the House, repeals those provisions and establishes a single (and truly uniform) administrative process for these claims.

Prohibiting retaliation against persons who, in good faith, report violations of the law means that these 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.

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For these reasons, the Department respectfully requests a **favorable report** by the Committee on HB 136.

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