

HB0136_Employer_Adverse_Actions_Prohibitions_MLC_F

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0136

Employer Adverse Actions Prohibition

Bill Sponsors: Chair, Economic Matters Committee

Committee: Finance

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of HB0136 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

MLC supports legislation that expands employee whistleblowing protections. This legislation protects employees from recrimination for simply asking about their rights or employer responsibilities. Moreover, this legislation strengthens the Commissioner of Labor and Industry's ability to investigate violations, participate in mediation, issue orders, and enforce penalties.

Whistleblower protections can encourage people to voice their concerns without fear of retaliation. Employees are in a unique position to identify fraud, corruption, safety issues, injuries, discrimination, and waste. Thus, employees are a first line of defense against anti-competitive and anti-social activities. We need to protect people willing to perform this role for a well-functioning society.

We support this bill and recommend a **FAVORABLE** report in committee.

HB 136_Senate_Letter of Support_2024-03-26.pdf

Uploaded by: Devki Virk

Position: FAV

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.

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

For questions, please contact andrew.fulginiti@maryland.gov.

hb136- labor rights, state law FIN 3-27-2024.pdf

Uploaded by: Lee Hudson

Position: FAV



Delaware-Maryland Synod
Evangelical Lutheran Church in America
God's work. Our hands.

Testimony Prepared for the
Finance Committee
on
House Bill 136
March 27, 2024
Position: **Favorable**

Madam Chair and members of the Committee, thank you for the opportunity to support the dignity of human effort by acknowledging a human right within State law. I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America. We are a faith community with three judicatories in every part of our State.

Our community supports the human rights of workers in the interest of fair wages and safe and just work conditions. A 2017 message among us concerning human rights as principle and instrument, affirmed a 1999 ELCA statement about justice in the *oikos*, the economy.

Workers do have rights in Maryland and it should not be permissible that those rights be abridged or eliminated by employers dissenting from them.

For those reasons we support **House Bill 136** ask your favorable report.

Lee Hudson

Testimony in support of crossover bill HB0136.pdf

Uploaded by: Richard KAP Kaplowitz

Position: FAV

3/27/2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON CROSSOVER BILL HB#0136 - FAVORABLE

**Employment Standards, Prevailing Wage, and Living Wage – Employer Adverse Actions -
Prohibition**

TO: Chair Beidle, Vice Chair Klausmeier and members of the Finance Committee

FROM: Richard Keith Kaplowitz

My name is Richard Keith Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of CROSSOVER BILL HB#0193, Employment Standards, Prevailing Wage, and Living Wage – Employer Adverse Actions - Prohibition

My Jewish faith teaches that there are Jewish Ethics that govern the relationships between employers and employees. CROSSOVER BILL HB#0136 closely mirrors that ethical framework in creating a climate of moral treatment that governs labor relations.

In the article “Jewish Employee-Employer Relations” (<https://www.myjewishlearning.com/article/jewish-employee-employer-relations/>) the dimensions of employer’s conduct is discussed.

While making certain demands on workers, the bulk of Jewish labor law imposes obligations on employers. This emphasis on the responsibilities of employers reflects an understanding of the essential power imbalance between employers and employees, as well as an internalization of the Exodus narrative. Often cited within discussions of labor law is the biblical verse, “they are my servants” (Leviticus 25:43), understood by the rabbis to imply “and not servants to servants.” The experience of slavery and redemption instills within the lawmakers a wariness about any situation in which one person might, de facto, become the servant of another.

The essence of the proposed bill is to create an environment in which employer conduct towards employees is restricted in the imposition of a negative outcome for an employee’s lawful actions. It will add certainty to employees’ exercise of their employment rights without fear of reprisals.

CROSSOVER BILL HB0136 is a common-sense application of regulations on how we treat the imbalance created when an employer does not respect their employees’ rights. It enforces the safety of an employee whose actions vis-à-vis their employers could be met with negative consequences on their continued employment. **I respectfully urge this committee to return a favorable report on CROSSOVER BILL HB0136.**

HB 0136 - Employment Standards, Prevailing Wage, a

Uploaded by: Danna Blum

Position: UNF



January 26, 2024

Economic Matters Committee
The Honorable Delegate C. T. Wilson
Room 231
House Office Building
Annapolis, Maryland 21401

Dear Delegate Wilson:

RE: HB 0136 - Labor and Employment - Employment Standards, Prevailing Wage, and Living Wage - Employer Adverse Actions - Prohibition – Oppose

This bill will prohibit discrimination/adverse action against employees complaining/questioning actions under State Finance and Procurement.

Such prohibitions are already in place under both Federal and Maryland laws. This bill seems strictly punitive; adding another cause of action and additional penalties against employers.

The Carroll County Chamber of Commerce, a business advocacy organization of nearly 700 members, strongly opposes this bill and therefore requests that you give it an unfavorable report.

Sincerely,

A handwritten signature in black ink that reads "Mike McMullin".

Mike McMullin
President
Carroll County Chamber of Commerce

Cc: Senator Justin Ready
Delegate April Rose

HB 136_MDCC_Labor and Employment-Employment Standa

Uploaded by: Hannah Allen

Position: UNF



LEGISLATIVE POSITION:

Unfavorable

House Bill 136

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

Senate Finance Committee

Wednesday, March 27, 2024

Dear Chairwoman Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

House Bill 136 would prohibit employers from taking or threatening to take adverse action against an employee because the employee takes certain actions regarding rights and responsibilities, complaints, investigations, proceedings, or hearings under certain provisions of law. It also would authorize the Commissioner of Labor and Industry to investigate a violation of the Act on the Commissioner's own initiative or on receipt of a written complaint.

The Chamber condemns companies that knowingly discriminate against or threaten employees. However, without a cap on punitive damages, employers will face financial uncertainty when it comes to potential liabilities, and an uncapped amount would be viewed as overly punitive, leaving employers more risk averse. Businesses seek legal frameworks that provide a balance between safeguarding and protecting the rights of employees and preventing undue and excessive financial burdens. A cap on punitive damages would strike this balance. The [Equal Employment Opportunity Commission provides guidelines](#) from the Civil Rights Act outlining punitive damages caps. Many states also have caps on punitive damages not to exceed three times the compensatory damages.

Finally, as drafted, the Commissioner, with the employee's consent, can ask the Attorney General to bring an action on the employee's behalf. This additional legal burden further opens Maryland's businesses to increased liability that would add yet another degree of uncertainty in these already turbulent times. Further, the bill as drafted would allow an employee to bring forward a civil action against the employer. It would also allow the Commissioner to bring forward an action to enforce the order for a civil penalty. It seems duplicative and unnecessary to allow the Commissioner to request the Attorney General bring forward an action on behalf of an employee.

We urge the committee to consider a well-balanced legal framework that takes into account both the rights of employees and the challenges faced by businesses in a competitive market.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **HB 136**.

