

HOUSE BILL 1018

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CF SB 780

By: **Delegates W. Fisher, D.E. Davis, ~~W. Fisher~~, and Harrison**

Introduced and read first time: February 5, 2020

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2020

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Economic Stabilization Act – Revisions**

3 FOR the purpose of requiring the Secretary of Labor to develop certain mandatory, rather
4 than voluntary, guidelines for employers faced with a reduction in operations;
5 altering required contents of the guidelines; requiring an employer to provide written
6 notice to certain persons within a certain time period before initiating a reduction in
7 operations; requiring that the notice include certain information and a certain
8 statement; requiring the ~~Commissioner~~ Secretary, or the Secretary's designee, to
9 issue a certain order under certain circumstances; authorizing the ~~Commissioner~~
10 Secretary, or the Secretary's designee, to assess a certain civil penalty for certain
11 violations of this Act under certain circumstances; requiring the ~~Commissioner~~
12 Secretary, or the Secretary's designee, to consider certain factors in determining the
13 amount of a certain penalty; subjecting the assessment of a certain penalty to certain
14 requirements; defining a certain term; altering a certain definition; making stylistic
15 and conforming changes; and generally relating to the Economic Stabilization Act.

16 BY repealing and reenacting, with amendments,
17 Article – Labor and Employment
18 Section 11–301 and 11–304(b)
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2019 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Labor and Employment
23 Section 11–302, 11–303, and 11–304(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2016 Replacement Volume and 2019 Supplement)

3 BY adding to
4 Article – Labor and Employment
5 Section 11–305 and 11–306
6 Annotated Code of Maryland
7 (2016 Replacement Volume and 2019 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
9 That the Laws of Maryland read as follows:

10 **Article – Labor and Employment**

11 11–301.

12 (a) In this subtitle the following words have the meanings indicated.

13 (b) **(1) “EMPLOYEE” MEANS AN INDIVIDUAL WHO WORKS FOR AN**
14 **EMPLOYER FOR AN HOURLY OR SALARIED WAGE OR IN A MANAGERIAL AND**
15 **SUPERVISORY CAPACITY.**

16 **(2) “EMPLOYEE” DOES NOT INCLUDE INDIVIDUALS WHO WORK LESS**
17 **THAN AN AVERAGE OF 20 HOURS PER WEEK OR HAVE WORKED FOR AN EMPLOYER**
18 **FOR LESS THAN 6 MONTHS IN THE IMMEDIATELY PRECEDING 12 MONTHS.**

19 **(C) (1) “Employer” means any person, corporation, or other entity that employs**
20 **at least 50 [individuals] EMPLOYEES and operates an industrial, commercial, or business**
21 **enterprise in the State.**

22 **(2) “Employer” does not include the State or its political subdivisions or any**
23 **employer who has been doing business in the State less than 1 year.**

24 **[(c)] (D) “Reduction in operations” includes:**

25 **(1) the relocation of a part of an employer’s operation from 1 workplace to**
26 **another existing or proposed site; or**

27 **(2) the shutting down of a workplace or a portion of the operations of a**
28 **workplace that reduces the number of employees by at least 25 percent or 15 employees,**
29 **whichever is greater, over any 3–month period.**

30 **[(d)] (E) (1) “Workplace” includes a factory, plant, office or other facility**
31 **where employees produce goods or provide services.**

1 (2) "Workplace" does not include a construction site or other temporary
2 workplace.

3 11-302.

4 This subtitle does not apply to reductions in operations if the reduction:

5 (1) results solely from labor disputes;

6 (2) occurs in a commercial, industrial, or agricultural enterprise operated
7 by this State or its political subdivisions;

8 (3) occurs at construction sites or other temporary workplaces;

9 (4) results from seasonal factors that are determined by the Department to
10 be customary in the industry; or

11 (5) results when an employer files for bankruptcy under federal
12 bankruptcy laws.

13 11-303.

14 There shall be a quick response program to provide both employers and employees
15 with services to assist in mitigating the impact on employees that occurs with a reduction
16 in operations.

17 11-304.

18 (a) The State's quick response program is under the direction of the Secretary.

19 (b) (1) The Secretary in cooperation with the Workforce Development Board
20 shall develop [voluntary] **MANDATORY** guidelines for employers faced with a reduction in
21 operations.

22 (2) [These] **THE** guidelines **DEVELOPED UNDER PARAGRAPH (1) OF**
23 **THIS SUBSECTION** shall include:

24 [(1)] (I) [the appropriate length of time for advance notification to
25 employees] **SUBJECT TO § 11-305 OF THIS SUBTITLE, A WRITTEN NOTICE** that an
26 employer expects to terminate **EMPLOYEES** due to a reduction in operations[. Whenever
27 possible and appropriate, at least 90 days notice shall be given];

28 [(2)] (II) the [appropriate] continuation of benefits, such as health,
29 severance, and pension, that an employer should provide to employees who will be
30 terminated due to a reduction in operations; or

1 [(3)] (III) the specific mechanisms that employers can [utilize] USE to ask
2 for the assistance of the State's quick response program.

3 **11-305.**

4 (A) AN EMPLOYER SHALL PROVIDE WRITTEN NOTICE AT LEAST ~~90~~ 60 DAYS
5 BEFORE INITIATING A REDUCTION IN OPERATIONS TO:

6 (1) ALL EMPLOYEES AT THE WORKPLACE THAT IS SUBJECT TO THE
7 REDUCTION IN OPERATIONS;

8 (2) EACH EXCLUSIVE REPRESENTATIVE OR BARGAINING AGENCY
9 THAT REPRESENTS EMPLOYEES AT THE WORKPLACE THAT IS SUBJECT TO THE
10 REDUCTION IN OPERATIONS;

11 (3) INDIVIDUALS WHO WORK LESS THAN 20 HOURS ON AVERAGE EACH
12 WEEK OR HAVE WORKED FOR THE EMPLOYER FOR LESS THAN 6 MONTHS IN THE
13 IMMEDIATELY PRECEDING 12 MONTHS AT THE WORKPLACE THAT IS SUBJECT TO
14 THE REDUCTION IN OPERATIONS;

15 (4) THE DIVISION'S DISLOCATED WORKER UNIT; AND

16 (5) ALL ELECTED OFFICIALS IN THE JURISDICTION WHERE THE
17 WORKPLACE THAT IS SUBJECT TO THE REDUCTION IN OPERATIONS IS LOCATED.

18 (B) THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
19 SHALL INCLUDE:

20 (1) THE NAME AND ADDRESS OF THE WORKPLACE WHERE THE
21 REDUCTION OF OPERATIONS IS EXPECTED TO OCCUR;

22 (2) THE NAME, TELEPHONE NUMBER, AND E-MAIL ADDRESS OF A
23 WORKPLACE SUPERVISORY EMPLOYEE AS A CONTACT FOR SEEKING FURTHER
24 INFORMATION;

25 (3) A STATEMENT THAT EXPLAINS WHETHER THE REDUCTION IN
26 OPERATIONS IS EXPECTED TO BE PERMANENT OR TEMPORARY AND WHETHER THE
27 WORKPLACE IS EXPECTED TO SHUT DOWN; AND

28 (4) THE EXPECTED DATE WHEN THE REDUCTION IN OPERATIONS
29 WILL BEGIN.

30 **11-306.**

1 (A) IF THE ~~COMMISSIONER~~ SECRETARY, OR THE SECRETARY'S DESIGNEE,
2 DETERMINES THAT AN EMPLOYER HAS VIOLATED § 11-305 OF THIS SUBTITLE, THE
3 ~~COMMISSIONER~~ SECRETARY, OR THE SECRETARY'S DESIGNEE:

4 (1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

5 (2) MAY, IN THE ~~COMMISSIONER'S~~ SECRETARY'S, OR THE
6 SECRETARY'S DESIGNEE'S, DISCRETION, ASSESS A CIVIL PENALTY OF UP TO \$10,000
7 PER DAY FOR EACH DAY THAT AN EMPLOYER VIOLATED § 11-305 OF THIS SUBTITLE.

8 (B) IN DETERMINING THE AMOUNT OF THE PENALTY, IF ASSESSED, THE
9 ~~COMMISSIONER~~ SECRETARY, OR THE SECRETARY'S DESIGNEE, SHALL CONSIDER:

10 (1) THE GRAVITY OF THE VIOLATION;

11 (2) THE SIZE OF THE EMPLOYER'S BUSINESS;

12 (3) THE EMPLOYER'S GOOD FAITH; AND

13 (4) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS
14 SUBTITLE.

15 (C) THE ASSESSMENT OF A PENALTY UNDER SUBSECTION (A)(2) OF THIS
16 SECTION SHALL BE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF
17 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.