

# HOUSE BILL 104

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By: **Delegates McDermott, Afzali, Aumann, Boteler, Cluster, Fisher, Frank, George, Haddaway–Riccio, Hershey, Hogan, Hough, Jacobs, Kach, Kipke, Krebs, McComas, McMillan, W. Miller, Minnick, Myers, Norman, Olszewski, Otto, Ready, Schuh, Smigiel, Stocksdales, Szeliga, Valentino–Smith, Vitale, and Weir**

Introduced and read first time: January 16, 2013

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Occupational Safety and Health – Good Faith Actions by Business Owners –**  
3 **Penalty Forgiveness**

4 FOR the purpose of prohibiting the Commissioner of Labor and Industry from  
5 assessing under certain circumstances a civil penalty against an employer for  
6 certain violations of the Maryland Occupational Safety and Health Act, certain  
7 orders passed under the Act, or certain regulations adopted to carry out the Act;  
8 providing for the termination of this Act under certain circumstances; and  
9 generally relating to the enforcement of occupational safety and health  
10 standards.

11 BY repealing and reenacting, with amendments,  
12 Article – Labor and Employment  
13 Section 5–809  
14 Annotated Code of Maryland  
15 (2008 Replacement Volume and 2012 Supplement)

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

18 **Article – Labor and Employment**

19 5–809.

20 (a) (1) For the purpose of this subsection, a violation is considered to be a  
21 serious violation if there is a substantial probability that death or serious physical

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 harm could result from a condition that exists or a practice, means, method, operation,  
2 or process that has been adopted or is in use, unless the employer did not and with the  
3 exercise of reasonable diligence could not know of the violation.

4 (2) The Commissioner shall assess a civil penalty against an employer  
5 who receives a citation for a serious violation of this title, an order passed under this  
6 title, or a regulation adopted to carry out this title.

7 (b) The Commissioner shall assess a civil penalty against an employer who  
8 violates a requirement for posting imposed under this title.

9 (c) (1) **[The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**  
10 Commissioner may assess a civil penalty against an employer who:

11 **[(1)] (I)** willfully or repeatedly violates this title, an order passed  
12 under this title, or a regulation adopted to carry out this title; or

13 **[(2)] (II)** receives a citation for a violation of a provision of this title,  
14 an order passed under this title, or a regulation adopted to carry out this title and  
15 there is a specific determination that the violation is not of a serious nature.

16 **(2) THE COMMISSIONER MAY NOT ASSESS A CIVIL PENALTY**  
17 **AGAINST AN EMPLOYER UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IF:**

18 **(I) THE COMMISSIONER HAS NOT PREVIOUSLY ISSUED A**  
19 **CITATION TO THE EMPLOYER FOR ANY VIOLATION OF THIS TITLE, AN ORDER**  
20 **PASSED UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS**  
21 **TITLE;**

22 **(II) THE VIOLATION IS NOT A SERIOUS VIOLATION; AND**

23 **(III) THE EMPLOYER CORRECTS THE VIOLATION WITHIN A**  
24 **REASONABLE PERIOD OF TIME SPECIFIED IN THE CITATION BY THE**  
25 **COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER.**

26 (d) The Commissioner may assess a civil penalty against an employer who  
27 does not correct a violation for which a citation is issued within the period set under  
28 this title for correction.

29 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this  
30 Act would result in the loss of authority of the State under § 18 of the federal  
31 Williams–Steiger Occupational Safety and Health Act of 1970, as amended, to  
32 administer a State occupational safety and health program, this Act shall be  
33 abrogated and of no further force and effect. If the federal Occupational Safety and  
34 Health Administration determines that any provision of this Act will result in the loss  
35 of the authority of the State to administer the State occupational safety and health

1 program, the Commissioner of Labor and Industry, within 5 days after receiving notice  
2 of the determination from the federal Occupational Safety and Health Administration,  
3 shall forward a copy of the determination to the Executive Director of the Department  
4 of Legislative Services.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2013.