

HOUSE BILL 391

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4lr0410

By: **Delegates Rosenberg, Oaks, and Reznik**
Introduced and read first time: January 23, 2014
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Rights – Employment Discrimination – Employees Inquiring About,**
3 **Discussing, or Disclosing Wages**

4 FOR the purpose of prohibiting employers from prohibiting employees from inquiring
5 about, discussing, or disclosing certain wage information; authorizing employers
6 to provide employees with certain written policies that establish certain
7 limitations concerning certain inquiries, discussions, or disclosures of wages;
8 establishing a certain affirmative defense; providing that certain provisions of
9 law do not apply under certain circumstances; and generally relating to civil
10 rights, employment discrimination, and employees inquiring about, discussing,
11 or disclosing wages.

12 BY repealing and reenacting, with amendments,
13 Article – State Government
14 Section 20–607
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2013 Supplement)

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

19 **Article – State Government**

20 20–607.

21 (a) For purposes of this subtitle, an unlawful employment practice occurs,
22 with respect to discrimination in compensation in violation of this subtitle, when:

23 (1) a discriminatory compensation decision or other practice is
24 adopted;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) an individual becomes subject to a discriminatory compensation
2 decision or other practice; or

3 (3) an individual is affected by application of a discriminatory
4 compensation decision or other practice, including each time wages, benefits, or other
5 compensation is paid, resulting wholly or partly from the discriminatory compensation
6 decision or other practice.

7 (b) In addition to any relief authorized by this title, liability may accrue and
8 an aggrieved person may obtain relief as provided in § 20–1009 of this title, including
9 recovery of back pay for up to 2 years preceding the filing of the complaint, where the
10 unlawful employment practice that has occurred during the complaint filing period is
11 similar or related to an unlawful employment practice with regard to discrimination in
12 compensation that occurred outside the time for filing a complaint.

13 (c) (1) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN
14 EMPLOYER MAY NOT PROHIBIT AN EMPLOYEE FROM INQUIRING ABOUT,
15 DISCUSSING, OR DISCLOSING THE WAGES OF THE EMPLOYEE OR ANOTHER
16 EMPLOYEE.**

17 (2) (1) **AN EMPLOYER MAY PROVIDE A WRITTEN POLICY TO ALL
18 EMPLOYEES THAT:**

19 1. **ESTABLISHES REASONABLE WORKPLACE AND
20 WORKDAY LIMITATIONS ON THE TIME, PLACE, AND MANNER OF INQUIRIES,
21 DISCUSSIONS, OR DISCLOSURES OF WAGES; AND**

22 2. **IS CONSISTENT WITH ALL OTHER STATE AND
23 FEDERAL LAWS.**

24 (II) **A WRITTEN POLICY PROVIDED UNDER SUBPARAGRAPH
25 (I) OF THIS PARAGRAPH MAY PROHIBIT AN EMPLOYEE FROM DISCUSSING OR
26 DISCLOSING THE WAGES OF ANOTHER EMPLOYEE WITHOUT THE PERMISSION OF
27 THE OTHER EMPLOYEE.**

28 (III) **FAILURE OF AN EMPLOYEE TO COMPLY WITH A
29 WRITTEN POLICY ESTABLISHED IN ACCORDANCE WITH THIS PARAGRAPH IS AN
30 AFFIRMATIVE DEFENSE TO ANY CLAIM MADE UNDER THIS SECTION AGAINST AN
31 EMPLOYER THAT AN ADVERSE EMPLOYMENT ACTION WAS TAKEN BY THE
32 EMPLOYER, IF THE ADVERSE EMPLOYMENT ACTION WAS TAKEN FOR FAILURE
33 OF AN EMPLOYEE TO COMPLY WITH THE WRITTEN POLICY AND NOT FOR MERE
34 INQUIRY, DISCUSSION, OR DISCLOSURE OF WAGES IN ACCORDANCE WITH THE
35 WRITTEN POLICY.**

1 **(3) THIS SUBSECTION DOES NOT:**

2 **(I) REQUIRE AN EMPLOYEE TO DISCLOSE THE WAGES OF**
3 **THE EMPLOYEE; OR**

4 **(II) LIMIT THE RIGHTS OF AN EMPLOYEE PROVIDED UNDER**
5 **ANY OTHER PROVISION OF LAW OR COLLECTIVE BARGAINING AGREEMENT.**

6 **(4) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN**
7 **EMPLOYEE WHO HAS ACCESS TO THE WAGE INFORMATION OF ANOTHER**
8 **EMPLOYEE AS PART OF THE EMPLOYEE'S ESSENTIAL JOB FUNCTIONS AND**
9 **DISCLOSES THE WAGES OF THE OTHER EMPLOYEE TO AN INDIVIDUAL WHO DOES**
10 **NOT OTHERWISE HAVE ACCESS TO THE WAGE INFORMATION, UNLESS THE**
11 **DISCLOSURE IS IN RESPONSE TO A COMPLAINT OR CHARGE, OR IN**
12 **FURTHERANCE OF AN INVESTIGATION, A PROCEEDING, A HEARING, OR AN**
13 **ACTION UNDER THIS SUBTITLE, INCLUDING AN INVESTIGATION BY AN**
14 **EMPLOYER.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2014.