

# HOUSE BILL 649

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CF SB 525

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By: **Delegates White Holland, Bagnall, Boaf, Charkoudian, Crutchfield, Cullison, Fennell, Foley, Grossman, Guyton, Guzzone, Lopez, McCaskill, Mireku-North, Pasteur, Patterson, Pena-Melnyk, Queen, Shetty, Taveras, Turner, Valderrama, and Williams**

Introduced and read first time: January 25, 2024

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Equal Pay for Equal Work – Wage Range**  
3 **Transparency**

4 FOR the purpose of altering the requirement that an employer disclose certain wage  
5 information to an applicant for employment; requiring an employer to disclose  
6 certain wage information in certain postings and to certain employees at certain  
7 times; requiring an employer to set the wage range disclosed in good faith;  
8 prohibiting an employer from taking a certain retaliatory action; requiring each  
9 employer to keep a record of compliance with certain provisions of this Act for at  
10 least a certain time period; and generally relating to equal pay for equal work.

11 BY repealing and reenacting, with amendments,  
12 Article – Labor and Employment  
13 Section 3–301, 3–304.2, 3–305, 3–307, and 3–308(e)  
14 Annotated Code of Maryland  
15 (2016 Replacement Volume and 2023 Supplement)

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

18 **Article – Labor and Employment**

19 3–301.

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

21 (b) (1) “Employer” means:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) a person engaged in a business, industry, profession, trade, or  
2 other enterprise in the State;

3 (ii) the State and its units;

4 (iii) a county and its units; and

5 (iv) a municipal government in the State.

6 (2) "Employer" includes a person who acts directly or indirectly in the  
7 interest of another employer with an employee.

8 (c) "Gender identity" has the meaning stated in § 20–101 of the State Government  
9 Article.

10 (d) **"POSTING" MEANS A SOLICITATION INTENDED TO RECRUIT**  
11 **APPLICANTS FOR A SPECIFIC AVAILABLE POSITION, INCLUDING RECRUITMENT**  
12 **DONE DIRECTLY BY AN EMPLOYER OR INDIRECTLY THROUGH A THIRD PARTY.**

13 (E) (1) "Wage" means all compensation for employment.

14 (2) "Wage" includes board, lodging, or other advantage provided to an  
15 employee for the convenience of the employer.

16 (F) **"WAGE RANGE" MEANS THE MINIMUM AND MAXIMUM HOURLY OR**  
17 **SALARY WAGE FOR A POSITION, SET IN GOOD FAITH BY REFERENCE, AS APPLICABLE,**  
18 **TO:**

19 (1) **ANY PAY SCALE;**

20 (2) **ANY PREVIOUSLY DETERMINED MINIMUM AND MAXIMUM HOURLY**  
21 **OR SALARY WAGE FOR THE POSITION;**

22 (3) **THE MINIMUM AND MAXIMUM HOURLY OR SALARY WAGE OF AN**  
23 **INDIVIDUAL HOLDING AN EQUIVALENT POSITION AT THE TIME OF THE POSTING; OR**

24 (4) **THE BUDGETED AMOUNT FOR THE POSITION.**

25 3–304.2.

26 [(a) On request, an employer shall provide to an applicant for employment the  
27 wage range for the position for which the applicant applied.]

1           **(A) (1) THIS SUBSECTION APPLIES ONLY WITH RESPECT TO A JOB OR**  
2 **PROMOTION, TRANSFER, OR OTHER EMPLOYMENT OPPORTUNITY THAT WILL BE**  
3 **PHYSICALLY PERFORMED:**

4                   **(I) AT LEAST IN PART, IN THE STATE; OR**

5                   **(II) OUTSIDE THE STATE, IF THE EMPLOYEE REPORTS TO:**

6                   1.     **A SUPERVISOR WHO IS PHYSICALLY LOCATED IN THE**  
7 **STATE; OR**

8                   2.     **AN OFFICE OR ANOTHER WORK SITE THAT IS**  
9 **PHYSICALLY LOCATED IN THE STATE.**

10           **(2) AN EMPLOYER SHALL:**

11                   **(I) DISCLOSE IN EACH PUBLIC OR INTERNAL POSTING FOR**  
12 **EACH JOB, PROMOTION, TRANSFER, OR OTHER EMPLOYMENT OPPORTUNITY THE**  
13 **HOURLY OR SALARY WAGE OR WAGE RANGE AND A GENERAL DESCRIPTION OF**  
14 **BENEFITS AND OTHER COMPENSATION OFFERED FOR THE POSITION; AND**

15                   **(II) IF A PUBLIC OR INTERNAL POSTING FOR A JOB, PROMOTION,**  
16 **TRANSFER, OR OTHER EMPLOYMENT OPPORTUNITY WAS NOT MADE AVAILABLE TO**  
17 **AN APPLICANT FOR EMPLOYMENT, DISCLOSE TO THE APPLICANT THE INFORMATION**  
18 **REQUIRED TO BE DISCLOSED IN A PUBLIC OR INTERNAL POSTING UNDER ITEM (I)**  
19 **OF THIS PARAGRAPH:**

20                   1.     **BEFORE A DISCUSSION OF COMPENSATION IS HELD**  
21 **WITH THE APPLICANT; AND**

22                   2.     **AT ANY OTHER TIME ON REQUEST OF THE APPLICANT.**

23           **(B) AN EMPLOYER SHALL SET THE WAGE RANGE DISCLOSED UNDER**  
24 **SUBSECTION (A)(2) OF THIS SECTION IN GOOD FAITH.**

25           **[(b)] (C) (1) An employer may not:**

26                   (i)     retaliate against or refuse to interview, hire, or employ an  
27 applicant for employment **OR PROMOTE OR TRANSFER AN EMPLOYEE** because the  
28 applicant **OR EMPLOYEE:**

29                   1.     did not provide wage history; [or]

1 2. requested the wage range in accordance with this section  
 2 [for the position for which the applicant applied]; [and] OR

3 **3. EXERCISED ANY RIGHTS UNDER THIS SECTION; AND**

4 (ii) except as provided in paragraph (2) of this subsection:

5 1. rely on the wage history of an applicant for employment in  
 6 screening or considering the applicant for employment or in determining the wages for the  
 7 applicant; or

8 2. seek the wage history for an applicant for employment  
 9 orally, in writing, or through an employee or an agent or from a current or former employer.

10 (2) After an employer makes an initial offer of employment with an offer of  
 11 compensation to an applicant for employment, an employer may:

12 (i) subject to paragraph (3) of this subsection, rely on the wage  
 13 history voluntarily provided by the applicant for employment to support a wage offer higher  
 14 than the initial wage offered by the employer; or

15 (ii) seek to confirm the wage history voluntarily provided by the  
 16 applicant for employment to support a wage offer higher than the initial wage offered by  
 17 the employer.

18 (3) An employer may rely on wage history under paragraph (2) of this  
 19 subsection only if the higher wage does not create an unlawful pay differential based on  
 20 protected characteristics under § 3–304 of this subtitle.

21 **[(c)] (D)** This section may not be construed to prohibit an applicant for  
 22 employment from sharing wage history with an employer voluntarily.

23 3–305.

24 (a) (1) Each employer shall keep each record that the Commissioner requires  
 25 on:

26 (i) wages of employees;

27 (ii) job classifications of employees; and

28 (iii) other conditions of employment.

29 **(2) EACH EMPLOYER SHALL KEEP A RECORD OF COMPLIANCE WITH §**  
 30 **3–304.2 OF THIS SUBTITLE FOR EACH POSTING FOR A JOB, PROMOTION, TRANSFER,**  
 31 **OR OTHER EMPLOYMENT OPPORTUNITY FOR AT LEAST 3 YEARS.**

1            ~~[(2)]~~ **(3)**     An employer shall keep the records required under this  
2 subsection for the period of time that the Commissioner requires.

3            (b)     On the basis of the records required under this section, an employer shall  
4 make each report that the Commissioner requires.

5 3–307.

6            (a)     (1)     If an employer knew or reasonably should have known that the  
7 employer’s action violates § 3–304 of this subtitle, an affected employee may bring an action  
8 against the employer for injunctive relief and to recover the difference between the wages  
9 paid to employees of one sex or gender identity and the wages paid to employees of another  
10 sex or gender identity who do the same type work and an additional equal amount as  
11 liquidated damages.

12            (2)     If an employer knew or reasonably should have known that the  
13 employer’s action violates § 3–304.1 of this subtitle, an affected employee may bring an  
14 action against the employer for injunctive relief and to recover actual damages and an  
15 additional equal amount as liquidated damages.

16            **(3)     AN AFFECTED EMPLOYEE OR APPLICANT FOR EMPLOYMENT MAY  
17 BRING AN ACTION AGAINST THE EMPLOYER WHO VIOLATES § 3–304.2 OF THIS  
18 SUBTITLE FOR INJUNCTIVE RELIEF AND TO RECOVER DAMAGES UP TO \$10,000 OR  
19 ACTUAL DAMAGES, WHICHEVER IS GREATER, PLUS REASONABLE ATTORNEY’S FEES.**

20            **(4)     An employee OR APPLICANT FOR EMPLOYMENT may bring an action  
21 on behalf of the employee OR APPLICANT and other employees OR APPLICANTS similarly  
22 affected.**

23            (b)     On the written request of an employee **OR APPLICANT FOR EMPLOYMENT**  
24 who is entitled to bring an action under this section, the Commissioner may:

25            (1)     take an assignment of the claim in trust for the employee **OR**  
26 **APPLICANT;**

27            (2)     ask the Attorney General to bring an action in accordance with this  
28 section on behalf of the employee **OR APPLICANT;** and

29            (3)     consolidate 2 or more claims against an employer.

30            (c)     An action under this section shall be filed within 3 years after:

31            **(1)     the employee receives from the employer the wages paid on the  
32 termination of employment under § 3–505(a) of this title; OR**

1           **(2) THE DATE THE APPLICANT FOR EMPLOYMENT LEARNED OF THE**  
2 **VIOLATION UNDER § 3-304.2 OF THIS SUBTITLE.**

3           (d) The agreement of an employee to work for less than the wage to which the  
4 employee is entitled under this subtitle is not a defense to an action under this section.

5           (e) If a court determines that an employee **OR APPLICANT FOR EMPLOYMENT**  
6 is entitled to judgment in an action under this section, the court shall allow against the  
7 employer reasonable counsel fees and other costs of the action, as well as prejudgment  
8 interest in accordance with the Maryland Rules.

9 3-308.

10           (e) (1) If the Commissioner determines that an employer has violated §  
11 3-304.2 of this subtitle, the Commissioner:

12                           (i) shall issue an order compelling compliance; and

13                           (ii) may, in the Commissioner's discretion:

14                                 1. for a first violation, issue a letter to the employer  
15 compelling compliance;

16                                 2. for a second violation, assess a civil penalty of up to \$300  
17 for each **EMPLOYEE OR** applicant for employment for whom the employer is not in  
18 compliance; or

19                                 3. for each subsequent violation, assess a civil penalty of up  
20 to \$600 for each **EMPLOYEE OR** applicant for employment for whom the employer is not in  
21 compliance if the violation occurred within 3 years after a previous determination that a  
22 violation had occurred.

23           (2) In determining the amount of the penalty, if assessed, the  
24 Commissioner shall consider:

25                           (i) the gravity of the violation;

26                           (ii) the size of the employer's business;

27                           (iii) the employer's good faith; and

28                           (iv) the employer's history of violations under this subtitle.

29           (3) If the Commissioner assesses a penalty under paragraph (1)(ii) of this  
30 subsection, the penalty shall be subject to the notice and hearing requirements of Title 10,  
31 Subtitle 2 of the State Government Article.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2024.