

HOUSE BILL 795

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3lr2642
CF SB 757

By: **Delegates Hucker, Jameson, Love, McHale, and Vaughn**

Introduced and read first time: February 6, 2013

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2013

CHAPTER _____

1 AN ACT concerning

2 **Maryland Occupational Safety and Health Act – Discrimination Against**
3 **Employee – Complaints**

4 FOR the purpose of authorizing ~~an employee who believes that an employer or other~~
5 ~~person has violated a certain provision of the Maryland Occupational Safety and~~
6 ~~Health Act to submit orally a complaint to the Commissioner of Labor and~~
7 ~~Industry; clarifying language;~~ the Commissioner of Labor and Industry to
8 accept certain oral complaints made by a certain employee if the employee
9 submits a written complaint, signed by the employee, within a certain time
10 period after making the oral complaint; and generally relating to the submission
11 of complaints to the Commissioner of Labor and Industry under the Maryland
12 Occupational Safety and Health Act.

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 5–604
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2012 Supplement)

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

20 **Article – Labor and Employment**

21 5–604.

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 (a) (1) An employer or other person may not discharge or otherwise
2 discriminate against an employee on the basis of information gained through
3 participation of the employee in group medical coverage.

4 (2) This title does not prevent an employer from using medical
5 information that:

6 (i) has a direct, material, and timely relationship to the
7 capacity or fitness of an employee to perform the job of the employee properly; or

8 (ii) differs substantially from medical information that the
9 employee falsely provides in an application for employment.

10 (b) An employer or other person may not discharge or otherwise discriminate
11 against an employee because the employee:

12 (1) files a complaint under or related to this title;

13 (2) brings an action under this title or a proceeding under or related to
14 this title or causes the action or proceeding to be brought;

15 (3) has testified or will testify in an action under this title or a
16 proceeding under or related to this title; or

17 (4) exercises, for the employee or another, a right under this title.

18 (c) (1) ~~(I) As SUBJECT TO SUBPARAGRAPH (II) OF THIS~~
19 ~~PARAGRAPH, AN~~ employee who believes that an employer or other person has
20 discharged or otherwise discriminated against the employee in violation of subsection
21 (a) or (b) of this section may submit to the Commissioner, ~~ORALLY OR IN WRITING,~~ a
22 ~~written~~ complaint that alleges the discrimination ~~and that includes the signature of~~
23 ~~the employee~~.

24 ~~(II) IF AN EMPLOYEE SUBMITS A WRITTEN COMPLAINT~~
25 ~~UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPLAINT SHALL~~
26 ~~INCLUDE THE COMMISSIONER SHALL ACCEPT AS TIMELY AN ORAL COMPLAINT~~
27 ~~MADE BY THE EMPLOYEE UNDER THE CIRCUMSTANCES DESCRIBED IN~~
28 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH, PROVIDED THE EMPLOYEE SUBMITS A~~
29 ~~WRITTEN COMPLAINT WITHIN 7 BUSINESS DAYS OF THE ORAL COMPLAINT AND~~
30 ~~THAT INCLUDES THE SIGNATURE OF THE EMPLOYEE.~~

31 (2) An employee shall file a complaint under this subsection within 30
32 days after the alleged discrimination occurs.

1 (d) (1) On receipt of a complaint under subsection (c) of this section, the
2 Commissioner may investigate.

3 (2) If, after investigation, the Commissioner determines that an
4 employer or other person has violated subsection (a) or (b) of this section, the
5 Commissioner shall file a complaint to enjoin the violation, to reinstate the employee
6 to the former position with back pay, or for other appropriate relief in the circuit court
7 for:

8 (i) the county in which the alleged violation occurred;

9 (ii) the county in which the employer has its principal office; or

10 (iii) Baltimore City.

11 (3) Within 90 days after the Commissioner receives a complaint, the
12 Commissioner shall notify the employee of the determination under this subsection.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.