

SENATE BILL 449

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SB 911/21 – JPR

2lr1683

By: ~~Senator Smith~~ **Senators Smith, Carter, Hettleman, and Lee**

Introduced and read first time: January 27, 2022

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2022

CHAPTER _____

1 AN ACT concerning

2 **Unlawful Employment Practices – Remedies**

3 FOR the purpose of increasing the limitations on the amount of compensatory damages and
4 punitive damages that may be awarded to a complainant in an unlawful employment
5 practice case; increasing the period of time for which a complainant may recover back
6 pay in an unlawful employment practice case; and generally relating to remedies for
7 unlawful employment practices.

8 BY repealing and reenacting, with amendments,
9 Article – State Government
10 Section 20–1009
11 Annotated Code of Maryland
12 (2021 Replacement Volume)

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

15 **Article – State Government**

16 20–1009.

17 (a) If, after reviewing all of the evidence, the administrative law judge finds that
18 the respondent has engaged in a discriminatory act, the administrative law judge shall:

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 (1) issue a decision and order stating the judge's findings of fact and
2 conclusions of law; and

3 (2) issue and cause to be served on the respondent an order requiring the
4 respondent to:

5 (i) cease and desist from engaging in the discriminatory acts; and

6 (ii) take affirmative action to effectuate the purposes of the
7 applicable subtitle of this title.

8 (b) (1) If the respondent is found to have engaged in or to be engaging in an
9 unlawful employment practice charged in the complaint, the remedy may include:

10 (i) enjoining the respondent from engaging in the discriminatory
11 act;

12 (ii) ordering appropriate affirmative relief, including the
13 reinstatement or hiring of employees, with or without back pay;

14 (iii) awarding compensatory damages; or

15 (iv) ordering any other equitable relief that the administrative law
16 judge considers appropriate.

17 (2) Compensatory damages awarded under this subsection are in addition
18 to:

19 (i) back pay or interest on back pay that the complainant may
20 recover under any other provision of law; and

21 (ii) any other equitable relief that a complainant may recover under
22 any other provision of law.

23 (3) (I) The sum of the amount of compensatory damages awarded to
24 each complainant under this subsection for future pecuniary losses, emotional pain,
25 suffering, inconvenience, mental anguish, loss of enjoyment of life, or nonpecuniary losses,
26 may not exceed:

27 [(i)] 1. [\$50,000] **\$65,000**, if the respondent employs not fewer
28 than 15 and not more than 100 employees in each of 20 or more calendar weeks in the
29 current or preceding calendar year;

30 [(ii)] 2. [\$100,000] **\$130,000**, if the respondent employs not fewer
31 than 101 and not more than 200 employees in each of 20 or more calendar weeks in the
32 current or preceding calendar year;

1 [(iii)] 3. [\$200,000] **\$260,000**, if the respondent employs not fewer
2 than 201 and not more than 500 employees in each of 20 or more calendar weeks in the
3 current or preceding calendar year; and

4 [(iv)] 4. [\$300,000] **\$385,000**, if the respondent employs not fewer
5 than 501 employees in each of 20 or more calendar weeks in the current or preceding
6 calendar year.

7 (II) 1. **THE LIMITATION ON COMPENSATORY DAMAGES**
8 **PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCREASE BY 5%**
9 **ON OCTOBER 1 EACH YEAR BEGINNING OCTOBER 1, 2022.**

10 2. **THE INCREASED AMOUNT SHALL APPLY TO CAUSES**
11 **OF ACTION ARISING BETWEEN OCTOBER 1 OF THAT YEAR AND SEPTEMBER 30 OF**
12 **THE FOLLOWING YEAR, INCLUSIVE.**

13 (4) If back pay is awarded under paragraph (1) of this subsection, the
14 award shall be reduced by any interim earnings or amounts earnable with reasonable
15 diligence by the person discriminated against.

16 (5) In addition to any other relief authorized by this subsection, a
17 complainant may recover back pay for up to [2] 3 years preceding the filing of the
18 complaint, where the unlawful employment practice that has occurred during the
19 complaint filing period is similar or related to an unlawful employment practice with regard
20 to discrimination in compensation that occurred outside the time for filing a complaint.

21 (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, if the
22 respondent is found to have engaged in or to be engaging in a discriminatory act other than
23 an unlawful employment practice, in addition to an award of civil penalties as provided in
24 § 20–1016 of this subtitle, nonmonetary relief may be granted to the complainant.

25 (ii) An order may not be issued that substantially affects the cost,
26 level, or type of any transportation services.

27 (2) (i) In cases involving transportation services that are supported
28 fully or partially with funds from the Maryland Department of Transportation, an order
29 may not be issued that would require costs, level, or type of transportation services different
30 from or exceeding those required to meet U.S. Department of Transportation regulations
31 adopted under 29 U.S.C. § 794.

32 (ii) An order issued in violation of subparagraph (i) of this paragraph
33 is not enforceable under § 20–1011 of this subtitle.

34 (d) If, after reviewing all of the evidence, the administrative law judge finds that
35 the respondent has not engaged in an alleged discriminatory act, the administrative law
36 judge shall:

1 (1) state findings of fact and conclusions of law; and

2 (2) issue an order dismissing the complaint.

3 (e) Unless a timely appeal is filed with the Commission in accordance with the
4 Commission’s regulations, a decision and order issued by the administrative law judge
5 under this section shall become the final order of the Commission.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.