

SENATE BILL 750

D5, K3

11r1414
CF 11r0331

By: **Senator Manno**

Introduced and read first time: February 4, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Religious Observance Accommodations Act**

3 FOR the purpose of authorizing employees of certain employers to use certain leave for
4 observance of sincerely held religious beliefs under certain circumstances;
5 establishing that an employer is not required to pay certain premium wages or
6 benefits under certain circumstances; providing that an employee who uses
7 leave under this Act must comply with the terms of a collective bargaining
8 agreement or employment policy; providing that an employer may require an
9 employee without paid leave to use leave without pay or work a certain number
10 of hours; providing for a certain exemption under certain circumstances;
11 establishing certain criteria for determining a certain hardship; prohibiting an
12 employer from taking certain actions against an employee who exercises certain
13 rights or files a complaint, testifies, or assists in a certain action against an
14 employer for a violation of this Act; prohibiting an employee from making
15 certain groundless or malicious complaints against an employer; defining
16 certain terms; providing for the construction of certain provisions of this Act;
17 providing for the application of this Act; and generally relating to the Religious
18 Observance Accommodations Act.

19 BY repealing and reenacting, without amendments,
20 Article – State Government
21 Section 20–606(a)
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2010 Supplement)

24 BY adding to
25 Article – State Government
26 Section 20–610
27 Annotated Code of Maryland
28 (2009 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Government**

4 20–606.

5 (a) An employer may not:

6 (1) fail or refuse to hire, discharge, or otherwise discriminate against
7 any individual with respect to the individual’s compensation, terms, conditions, or
8 privileges of employment because of:

9 (i) the individual’s race, color, religion, sex, age, national origin,
10 marital status, sexual orientation, genetic information, or disability unrelated in
11 nature and extent so as to reasonably preclude the performance of the employment; or

12 (ii) the individual’s refusal to submit to a genetic test or make
13 available the results of a genetic test;

14 (2) limit, segregate, or classify its employees or applicants for
15 employment in any way that would deprive or tend to deprive any individual of
16 employment opportunities or otherwise adversely affect the individual’s status as an
17 employee because of:

18 (i) the individual’s race, color, religion, sex, age, national origin,
19 marital status, sexual orientation, genetic information, or disability unrelated in
20 nature and extent so as to reasonably preclude the performance of the employment; or

21 (ii) the individual’s refusal to submit to a genetic test or make
22 available the results of a genetic test;

23 (3) request or require genetic tests or genetic information as a
24 condition of hiring or determining benefits; or

25 (4) fail or refuse to make a reasonable accommodation for the known
26 disability of an otherwise qualified employee.

27 **20–610.**

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
29 MEANINGS INDICATED.

30 (2) “LEAVE WITH PAY” MEANS TIME AWAY FROM WORK FOR
31 WHICH AN EMPLOYEE RECEIVES COMPENSATION.

1 **(3) “PREMIUM BENEFITS” MEANS EMPLOYMENT BENEFITS, SUCH**
2 **AS LEAVE, SENIORITY, LIFE, HEALTH, OR DISABILITY INSURANCE, OR**
3 **EDUCATIONAL OR RETIREMENT BENEFITS THAT ARE GREATER THAN THE**
4 **GENERAL EMPLOYMENT BENEFITS PROVIDED TO AN EMPLOYEE.**

5 **(4) “PREMIUM WAGES” MEANS ADDITIONAL COMPENSATION,**
6 **INCLUDING OVERTIME PAY OR COMPENSATORY LEAVE, FOR WORK PERFORMED**
7 **BEYOND THE NORMAL HOURS OF THE EMPLOYER’S BUSINESS.**

8 **(5) “SINCERELY HELD RELIGIOUS BELIEF” MEANS A MORAL OR**
9 **AN ETHICAL BELIEF AS TO WHAT IS RIGHT AND WRONG THAT IS SINCERELY**
10 **HELD WITH THE STRENGTH OF TRADITIONAL RELIGIOUS VIEWS.**

11 **(B) THIS SECTION APPLIES TO AN EMPLOYER THAT PROVIDES LEAVE**
12 **UNDER THE TERMS OF:**

13 **(1) A COLLECTIVE BARGAINING AGREEMENT; OR**

14 **(2) AN EMPLOYMENT POLICY.**

15 **(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN EMPLOYER**
16 **MAY NOT PROHIBIT AN EMPLOYEE FROM USING LEAVE TO OBSERVE A SABBATH**
17 **OR ANY OTHER HOLY DAY IN ACCORDANCE WITH A SINCERELY HELD RELIGIOUS**
18 **BELIEF.**

19 **(D) (1) AN EMPLOYEE WHO EARNS MORE THAN ONE TYPE OF LEAVE**
20 **MAY ELECT THE TYPE OF LEAVE TO BE USED UNDER THIS SECTION.**

21 **(2) AN EMPLOYEE OF AN EMPLOYER MAY USE LEAVE ONLY:**

22 **(I) THAT HAS BEEN EARNED; AND**

23 **(II) IN ACCORDANCE WITH THE TERMS OF THE**
24 **EMPLOYMENT POLICY OR COLLECTIVE BARGAINING AGREEMENT THAT**
25 **PERTAIN TO THE TYPE OF LEAVE USED.**

26 **(3) (I) IF AN EMPLOYEE HAS NOT EARNED OR IS NOT ELIGIBLE**
27 **FOR LEAVE WITH PAY, THE EMPLOYER MAY REQUIRE THE EMPLOYEE WHO**
28 **WISHES TO USE LEAVE GRANTED UNDER THIS SECTION TO:**

29 **1. WORK ADDITIONAL HOURS EQUIVALENT TO THE**
30 **AMOUNT OF LEAVE; OR**

31 **2. TAKE LEAVE WITHOUT PAY.**

1 **(II) AN EMPLOYEE IS NOT ENTITLED TO PREMIUM WAGES**
2 **OR BENEFITS THAT MAY OTHERWISE BE APPLICABLE FOR HOURS WORKED TO**
3 **COMPENSATE FOR LEAVE UNDER THIS PARAGRAPH.**

4 **(4) THIS SUBSECTION MAY NOT BE CONSTRUED AS REDUCING:**

5 **(I) THE NUMBER OF HOURS THAT ARE COUNTED TOWARD**
6 **THE ACCRUAL OF AN EMPLOYEE'S SENIORITY, PENSION, OR OTHER BENEFITS;**
7 **OR**

8 **(II) ANY PREMIUM WAGES OR BENEFITS PROVIDED TO AN**
9 **EMPLOYEE UNDER THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.**

10 **(E) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,**
11 **THE COMMISSION SHALL EXEMPT FROM THIS SECTION AN EMPLOYER THAT CAN**
12 **DEMONSTRATE TO THE COMMISSION THAT REASONABLE ACCOMMODATION TO**
13 **COMPLY WITH THE REQUIREMENTS OF THIS SECTION WOULD CAUSE AN UNDUE**
14 **HARDSHIP.**

15 **(2) THE COMMISSION SHALL CONSIDER AN ACCOMMODATION TO**
16 **BE AN UNDUE HARDSHIP IF THE ACCOMMODATION WOULD:**

17 **(I) REQUIRE UNREASONABLE EXPENSE OR DIFFICULTY;**

18 **(II) RESULT IN UNREASONABLE INTERFERENCE WITH THE**
19 **SAFE OR EFFICIENT OPERATION OF THE WORKPLACE; OR**

20 **(III) VIOLATE A BONA FIDE SENIORITY SYSTEM OR**
21 **COLLECTIVE BARGAINING AGREEMENT.**

22 **(3) THE COMMISSION SHALL CONSIDER THE FOLLOWING**
23 **CRITERIA TO DETERMINE WHETHER AN ACCOMMODATION CONSTITUTES AN**
24 **UNDUE HARDSHIP:**

25 **(I) THE IDENTIFIABLE COSTS OF THE ACCOMMODATION,**
26 **INCLUDING THE COSTS ASSOCIATED WITH:**

27 1. **LOSS OF PRODUCTIVITY; AND**

28 2. **RETAINING, HIRING, OR TRANSFERRING**
29 **EMPLOYEES FROM ONE FACILITY TO ANOTHER;**

1 **(II) THE NUMBER OF EMPLOYEES WHO WILL BE USING**
2 **LEAVE GRANTED UNDER THIS SECTION; AND**

3 **(III) FOR AN EMPLOYER WITH MULTIPLE FACILITIES, THE**
4 **DEGREE TO WHICH THE DISTANCE OR ADMINISTRATIVE OR FISCAL**
5 **RELATIONSHIP BETWEEN THE FACILITIES MAKES THE ACCOMMODATION MORE**
6 **DIFFICULT OR EXPENSIVE.**

7 **(F) AN EMPLOYER MAY NOT DISCHARGE, DEMOTE, SUSPEND,**
8 **DISCIPLINE, OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE OR**
9 **THREATEN TO TAKE ANY OF THESE ACTIONS AGAINST AN EMPLOYEE WHO:**

10 **(1) EXERCISES RIGHTS GRANTED UNDER THIS SECTION; OR**

11 **(2) FILES A COMPLAINT, TESTIFIES, OR ASSISTS IN AN ACTION**
12 **BROUGHT AGAINST THE EMPLOYER FOR A VIOLATION OF THIS SECTION.**

13 **(G) AN EMPLOYEE MAY NOT MAKE A GROUNDLESS OR MALICIOUS**
14 **COMPLAINT AGAINST AN EMPLOYER.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2011.