

# SENATE BILL 784

K3, P4

5lr2894  
CF HB 1072

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By: **Senator Conway**

Introduced and read first time: February 19, 2015

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Discrimination Based on Engagement in Lawful**  
3 **Activities – Prohibition**

4 FOR the purpose of prohibiting, under certain circumstances, an employer from failing or  
5 refusing to hire, discharging, or otherwise discriminating against an applicant or  
6 employee based on the applicant’s or employee’s engagement in a certain lawful  
7 activity off the employer’s premises during nonworking hours; providing that a  
8 certain provision of this Act does not apply to a certain restriction against engaging  
9 in a lawful activity under certain circumstances; authorizing an applicant or  
10 employee aggrieved by a violation of this Act to file a certain action against the  
11 employer to obtain certain relief; providing for a certain period of limitations for  
12 filing an action under this Act; authorizing a court to award certain reasonable costs  
13 to the prevailing party in an action under this Act; defining a certain term; making  
14 a conforming change; providing for the application of this Act; and generally relating  
15 to a prohibition against employer discrimination based on engagement in lawful  
16 activities.

17 BY repealing and reenacting, with amendments,  
18 Article – Courts and Judicial Proceedings  
19 Section 5–105  
20 Annotated Code of Maryland  
21 (2013 Replacement Volume and 2014 Supplement)

22 BY adding to  
23 Article – Labor and Employment  
24 Section 3–1301 to be under the new subtitle “Subtitle 13. Discrimination Based on  
25 Engagement in Lawful Activities”  
26 Annotated Code of Maryland  
27 (2008 Replacement Volume and 2014 Supplement)

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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 MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 5–105.

5 An action for assault, libel, or slander **OR AN ACTION UNDER § 3–1301 OF THE**  
6 **LABOR AND EMPLOYMENT ARTICLE** shall be filed within one year from the date it  
7 accrues.

8 **Article – Labor and Employment**

9 **SUBTITLE 13. DISCRIMINATION BASED ON ENGAGEMENT IN LAWFUL ACTIVITIES.**

10 **3–1301.**

11 **(A) IN THIS SECTION, “EMPLOYER” INCLUDES A UNIT OF STATE OR LOCAL**  
12 **GOVERNMENT.**

13 **(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF A LAWFUL ACTIVITY**  
14 **DOES NOT OR WILL NOT ADVERSELY AFFECT AN APPLICANT’S OR EMPLOYEE’S**  
15 **SAFETY, JOB PERFORMANCE, OR ABILITY TO PROPERLY FULFILL EMPLOYMENT**  
16 **RESPONSIBILITIES, AN EMPLOYER MAY NOT FAIL OR REFUSE TO HIRE, DISCHARGE,**  
17 **OR OTHERWISE DISCRIMINATE AGAINST THE APPLICANT OR EMPLOYEE BASED ON**  
18 **THE APPLICANT OR EMPLOYEE ENGAGING IN THE ACTIVITY OFF THE EMPLOYER’S**  
19 **PREMISES DURING NONWORKING HOURS.**

20 **(C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A RESTRICTION**  
21 **AGAINST ENGAGING IN A LAWFUL ACTIVITY IF THE ACTIVITY IS:**

22 **(1) RELATED TO A BONA FIDE OCCUPATIONAL REQUIREMENT;**

23 **(2) PART OF AN EXECUTIVE COMPENSATION PACKAGE INDIVIDUALLY**  
24 **NEGOTIATED WITH THE EMPLOYEE OR PROSPECTIVE EMPLOYEE;**

25 **(3) PART OF A COMPENSATION PACKAGE INDIVIDUALLY NEGOTIATED**  
26 **WITH A PROFESSIONAL ACTOR, ACTRESS, OR SPORTS FIGURE;**

27 **(4) PART OF A COLLECTIVE BARGAINING AGREEMENT UNDER WHICH**  
28 **THE EMPLOYEE IS COVERED; OR**

29 **(5) NECESSARY TO AVOID A CONFLICT, OR THE APPEARANCE OF A**  
30 **CONFLICT, OF INTEREST WITH ANY RESPONSIBILITIES TO THE EMPLOYER.**

1           **(D) IF AN EMPLOYER VIOLATES THIS SECTION, THE APPLICANT OR**  
2 **EMPLOYEE WHO IS AGGRIEVED BY THE VIOLATION MAY BRING A CIVIL ACTION**  
3 **AGAINST THE EMPLOYER TO:**

4                   **(1) RECOVER ANY WAGES OR BENEFITS LOST AS A RESULT OF THE**  
5 **VIOLATION;**

6                   **(2) OBTAIN AN ORDER OF REINSTATEMENT WITHOUT LOSS OF**  
7 **POSITION, SENIORITY, OR BENEFITS; OR**

8                   **(3) OBTAIN AN ORDER DIRECTING THE EMPLOYER TO OFFER**  
9 **EMPLOYMENT TO THE APPLICANT.**

10           **(E) AN ACTION UNDER THIS SECTION SHALL BE FILED WITHIN 1 YEAR FROM**  
11 **THE DATE OF THE ALLEGED VIOLATION.**

12           **(F) THE COURT MAY AWARD REASONABLE COSTS, INCLUDING COURT COSTS**  
13 **AND ATTORNEY’S FEES, TO THE PREVAILING PARTY IN AN ACTION UNDER THIS**  
14 **SECTION.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
16 apply only prospectively and may not be applied or interpreted to have any effect on or  
17 application to any cause of action arising before the effective date of this Act.

18           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
19 1, 2015.