

SENATE BILL 609

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3lr2160
CF HB 595

By: **Senator Klausmeier**

Introduced and read first time: February 1, 2013

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Retaliation by Employer – Prohibition**

3 FOR the purpose of expanding a provision of law prohibiting an employer from
4 discharging a covered employee who files a claim for compensation under the
5 Workers' Compensation law to include prohibiting an employer from retaliating
6 in any way against a covered employee who files such a claim; applying a
7 certain criminal penalty to a violation of this Act; authorizing a certain covered
8 employee to bring a civil action against the employer for a certain violation;
9 authorizing a court to grant certain relief for a certain violation under certain
10 circumstances; providing for trial by jury under certain circumstances;
11 providing that it is not a defense in a civil action under this Act that an
12 employer was found not guilty in a certain criminal proceeding; providing for
13 the construction of this Act; and generally relating to workers' compensation
14 and retaliation against covered employees.

15 BY repealing and reenacting, with amendments,
16 Article – Labor and Employment
17 Section 9–1105
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2012 Supplement)

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

22 **Article – Labor and Employment**

23 9–1105.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) An employer may not discharge a covered employee from employment
2 [solely] **OR RETALIATE IN ANY WAY AGAINST A COVERED EMPLOYEE** because the
3 covered employee files a claim for compensation under this title.

4 (b) A person who violates this section is guilty of a misdemeanor and on
5 conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 1 year
6 or both.

7 (c) (1) **A COVERED EMPLOYEE AGGRIEVED BY A VIOLATION OF THIS**
8 **SECTION MAY BRING A CIVIL ACTION AGAINST THE EMPLOYER.**

9 (2) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE**
10 **TRIER OF FACT IN A CIVIL ACTION UNDER THIS SUBSECTION FINDS IN FAVOR OF**
11 **THE COVERED EMPLOYEE, THE COURT MAY:**

12 (i) **ENJOIN THE EMPLOYER FROM ENGAGING IN**
13 **RETALIATION;**

14 (ii) **ORDER APPROPRIATE AFFIRMATIVE RELIEF,**
15 **INCLUDING THE REINSTATEMENT OR HIRING OF THE COVERED EMPLOYEE,**
16 **WITH OR WITHOUT BACK PAY;**

17 (iii) **AWARD COMPENSATORY DAMAGES;**

18 (iv) **AWARD BACK PAY AND BENEFITS; OR**

19 (v) **ORDER ANY OTHER EQUITABLE RELIEF THAT THE**
20 **COURT CONSIDERS APPROPRIATE.**

21 (3) **IF ANY PARTY TO AN ACTION UNDER THIS SUBSECTION**
22 **ELECTS TO HAVE THE CASE TRIED BY A JURY IN ACCORDANCE WITH THE**
23 **MARYLAND RULES, THE CASE SHALL BE TRIED BY A JURY.**

24 (4) **IT IS NOT A DEFENSE TO A CIVIL ACTION UNDER THIS**
25 **SUBSECTION THAT AN EMPLOYER WAS FOUND NOT GUILTY IN A CRIMINAL**
26 **PROCEEDING OF A VIOLATION OF THIS SECTION.**

27 (d) **THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON TO**
28 **MAINTAIN A CIVIL ACTION FOR DAMAGES OR OTHER REMEDIES OTHERWISE**
29 **AVAILABLE UNDER ANY OTHER PROVISION OF LAW.**

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