

SENATE BILL 525

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By: **Senators Kelly and Gile**

Introduced and read first time: January 24, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Equal Pay for Equal Work – Wage Range**
3 **Transparency**

4 FOR the purpose of altering the requirement that an employer disclose certain wage
5 information to an applicant for employment; requiring an employer to disclose
6 certain wage information in certain postings and to certain employees at certain
7 times; requiring an employer to set the wage range disclosed in good faith;
8 prohibiting an employer from taking a certain retaliatory action; requiring each
9 employer to keep a record of compliance with certain provisions of this Act for at
10 least a certain time period; and generally relating to equal pay for equal work.

11 BY repealing and reenacting, with amendments,
12 Article – Labor and Employment
13 Section 3–301, 3–304.2, 3–305, 3–307, and 3–308(e)
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2023 Supplement)

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

18 **Article – Labor and Employment**

19 3–301.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) (1) “Employer” means:

22 (i) a person engaged in a business, industry, profession, trade, or
23 other enterprise in the State;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (ii) the State and its units;
- 2 (iii) a county and its units; and
- 3 (iv) a municipal government in the State.

4 (2) "Employer" includes a person who acts directly or indirectly in the
5 interest of another employer with an employee.

6 (c) "Gender identity" has the meaning stated in § 20–101 of the State Government
7 Article.

8 (d) **"POSTING" MEANS A SOLICITATION INTENDED TO RECRUIT**
9 **APPLICANTS FOR A SPECIFIC AVAILABLE POSITION, INCLUDING RECRUITMENT**
10 **DONE DIRECTLY BY AN EMPLOYER OR INDIRECTLY THROUGH A THIRD PARTY.**

11 (E) (1) "Wage" means all compensation for employment.

12 (2) "Wage" includes board, lodging, or other advantage provided to an
13 employee for the convenience of the employer.

14 (F) **"WAGE RANGE" MEANS THE MINIMUM AND MAXIMUM HOURLY OR**
15 **SALARY WAGE FOR A POSITION, SET IN GOOD FAITH BY REFERENCE, AS APPLICABLE,**
16 **TO:**

17 (1) **ANY PAY SCALE;**

18 (2) **ANY PREVIOUSLY DETERMINED MINIMUM AND MAXIMUM HOURLY**
19 **OR SALARY WAGE FOR THE POSITION;**

20 (3) **THE MINIMUM AND MAXIMUM HOURLY OR SALARY WAGE OF AN**
21 **INDIVIDUAL HOLDING AN EQUIVALENT POSITION AT THE TIME OF THE POSTING; OR**

22 (4) **THE BUDGETED AMOUNT FOR THE POSITION.**

23 3–304.2.

24 [(a) On request, an employer shall provide to an applicant for employment the
25 wage range for the position for which the applicant applied.]

26 (A) (1) **THIS SUBSECTION APPLIES ONLY WITH RESPECT TO A JOB OR**
27 **PROMOTION, TRANSFER, OR OTHER EMPLOYMENT OPPORTUNITY THAT WILL BE**
28 **PHYSICALLY PERFORMED:**

29 (I) **AT LEAST IN PART, IN THE STATE; OR**

1 (II) OUTSIDE THE STATE, IF THE EMPLOYEE REPORTS TO:

2 1. A SUPERVISOR WHO IS PHYSICALLY LOCATED IN THE
3 STATE; OR

4 2. AN OFFICE OR ANOTHER WORK SITE THAT IS
5 PHYSICALLY LOCATED IN THE STATE.

6 (2) AN EMPLOYER SHALL:

7 (I) DISCLOSE IN EACH PUBLIC OR INTERNAL POSTING FOR
8 EACH JOB, PROMOTION, TRANSFER, OR OTHER EMPLOYMENT OPPORTUNITY THE
9 HOURLY OR SALARY WAGE OR WAGE RANGE AND A GENERAL DESCRIPTION OF
10 BENEFITS AND OTHER COMPENSATION OFFERED FOR THE POSITION; AND

11 (II) IF A PUBLIC OR INTERNAL POSTING FOR A JOB, PROMOTION,
12 TRANSFER, OR OTHER EMPLOYMENT OPPORTUNITY WAS NOT MADE AVAILABLE TO
13 AN APPLICANT FOR EMPLOYMENT, DISCLOSE TO THE APPLICANT THE INFORMATION
14 REQUIRED TO BE DISCLOSED IN A PUBLIC OR INTERNAL POSTING UNDER ITEM (I)
15 OF THIS PARAGRAPH:

16 1. BEFORE A DISCUSSION OF COMPENSATION IS HELD
17 WITH THE APPLICANT; AND

18 2. AT ANY OTHER TIME ON REQUEST OF THE APPLICANT.

19 (B) AN EMPLOYER SHALL SET THE WAGE RANGE DISCLOSED UNDER
20 SUBSECTION (A)(2) OF THIS SECTION IN GOOD FAITH.

21 [(b)] (C) (1) An employer may not:

22 (i) retaliate against or refuse to interview, hire, or employ an
23 applicant for employment OR PROMOTE OR TRANSFER AN EMPLOYEE because the
24 applicant OR EMPLOYEE:

25 1. did not provide wage history; [or]

26 2. requested the wage range in accordance with this section
27 [for the position for which the applicant applied]; [and] OR

28 3. EXERCISED ANY RIGHTS UNDER THIS SECTION; AND

29 (ii) except as provided in paragraph (2) of this subsection:

1 1. rely on the wage history of an applicant for employment in
2 screening or considering the applicant for employment or in determining the wages for the
3 applicant; or

4 2. seek the wage history for an applicant for employment
5 orally, in writing, or through an employee or an agent or from a current or former employer.

6 (2) After an employer makes an initial offer of employment with an offer of
7 compensation to an applicant for employment, an employer may:

8 (i) subject to paragraph (3) of this subsection, rely on the wage
9 history voluntarily provided by the applicant for employment to support a wage offer higher
10 than the initial wage offered by the employer; or

11 (ii) seek to confirm the wage history voluntarily provided by the
12 applicant for employment to support a wage offer higher than the initial wage offered by
13 the employer.

14 (3) An employer may rely on wage history under paragraph (2) of this
15 subsection only if the higher wage does not create an unlawful pay differential based on
16 protected characteristics under § 3–304 of this subtitle.

17 [(c)] (D) This section may not be construed to prohibit an applicant for
18 employment from sharing wage history with an employer voluntarily.

19 3–305.

20 (a) (1) Each employer shall keep each record that the Commissioner requires
21 on:

22 (i) wages of employees;

23 (ii) job classifications of employees; and

24 (iii) other conditions of employment.

25 (2) **EACH EMPLOYER SHALL KEEP A RECORD OF COMPLIANCE WITH §**
26 **3–304.2 OF THIS SUBTITLE FOR EACH POSTING FOR A JOB, PROMOTION, TRANSFER,**
27 **OR OTHER EMPLOYMENT OPPORTUNITY FOR AT LEAST 3 YEARS.**

28 [(2)] (3) An employer shall keep the records required under this
29 subsection for the period of time that the Commissioner requires.

30 (b) On the basis of the records required under this section, an employer shall
31 make each report that the Commissioner requires.

1 3-307.

2 (a) (1) If an employer knew or reasonably should have known that the
3 employer's action violates § 3-304 of this subtitle, an affected employee may bring an action
4 against the employer for injunctive relief and to recover the difference between the wages
5 paid to employees of one sex or gender identity and the wages paid to employees of another
6 sex or gender identity who do the same type work and an additional equal amount as
7 liquidated damages.

8 (2) If an employer knew or reasonably should have known that the
9 employer's action violates § 3-304.1 of this subtitle, an affected employee may bring an
10 action against the employer for injunctive relief and to recover actual damages and an
11 additional equal amount as liquidated damages.

12 (3) **AN AFFECTED EMPLOYEE OR APPLICANT FOR EMPLOYMENT MAY
13 BRING AN ACTION AGAINST THE EMPLOYER WHO VIOLATES § 3-304.2 OF THIS
14 SUBTITLE FOR INJUNCTIVE RELIEF AND TO RECOVER DAMAGES UP TO \$10,000 OR
15 ACTUAL DAMAGES, WHICHEVER IS GREATER, PLUS REASONABLE ATTORNEY'S FEES.**

16 (4) An employee **OR APPLICANT FOR EMPLOYMENT** may bring an action
17 on behalf of the employee **OR APPLICANT** and other employees **OR APPLICANTS** similarly
18 affected.

19 (b) On the written request of an employee **OR APPLICANT FOR EMPLOYMENT**
20 who is entitled to bring an action under this section, the Commissioner may:

21 (1) take an assignment of the claim in trust for the employee **OR**
22 **APPLICANT**;

23 (2) ask the Attorney General to bring an action in accordance with this
24 section on behalf of the employee **OR APPLICANT**; and

25 (3) consolidate 2 or more claims against an employer.

26 (c) An action under this section shall be filed within 3 years after:

27 (1) the employee receives from the employer the wages paid on the
28 termination of employment under § 3-505(a) of this title; **OR**

29 (2) **THE DATE THE APPLICANT FOR EMPLOYMENT LEARNED OF THE
30 VIOLATION UNDER § 3-304.2 OF THIS SUBTITLE.**

31 (d) The agreement of an employee to work for less than the wage to which the
32 employee is entitled under this subtitle is not a defense to an action under this section.

1 (e) If a court determines that an employee **OR APPLICANT FOR EMPLOYMENT**
2 is entitled to judgment in an action under this section, the court shall allow against the
3 employer reasonable counsel fees and other costs of the action, as well as prejudgment
4 interest in accordance with the Maryland Rules.

5 3–308.

6 (e) (1) If the Commissioner determines that an employer has violated §
7 3–304.2 of this subtitle, the Commissioner:

8 (i) shall issue an order compelling compliance; and

9 (ii) may, in the Commissioner’s discretion:

10 1. for a first violation, issue a letter to the employer
11 compelling compliance;

12 2. for a second violation, assess a civil penalty of up to \$300
13 for each **EMPLOYEE OR** applicant for employment for whom the employer is not in
14 compliance; or

15 3. for each subsequent violation, assess a civil penalty of up
16 to \$600 for each **EMPLOYEE OR** applicant for employment for whom the employer is not in
17 compliance if the violation occurred within 3 years after a previous determination that a
18 violation had occurred.

19 (2) In determining the amount of the penalty, if assessed, the
20 Commissioner shall consider:

21 (i) the gravity of the violation;

22 (ii) the size of the employer’s business;

23 (iii) the employer’s good faith; and

24 (iv) the employer’s history of violations under this subtitle.

25 (3) If the Commissioner assesses a penalty under paragraph (1)(ii) of this
26 subsection, the penalty shall be subject to the notice and hearing requirements of Title 10,
27 Subtitle 2 of the State Government Article.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2024.