

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

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TO: The Honorable Delores G. Kelley
Chair, Finance Committee

FROM: The Office of the Attorney General

RE: Senate Bill 384 – Health Facilities – Residential Service Agencies – Compliance with
State Labor Laws – **SUPPORT**

The Office of the Attorney General urges the favorable report of Senate Bill 384, which would require the Maryland Department of Health, Maryland Department of Labor, and the Office of the Attorney General to produce a guidance document concerning the application of Maryland Wage and Hour Laws to the employment of “personal care aides” by residential service agencies (hereinafter, RSAs).

There are about 1,351 RSAs in Maryland, and collectively they employ tens of thousands of workers at or near minimum wage. However, many of the employees at RSAs, notably, personal care aides, are misclassified as independent contractors. As independent contractors, these individuals do not have the protections of Maryland wage and employment laws – which means the loss of minimum wage and overtime benefits, unemployment benefits, workers’ compensation benefits, protections against illegal employment discrimination, and lack of protections against wage theft for RSA workers.¹

Senate Bill 384 would develop guidelines to properly classify personal care aides as employees, rather than independent contractors. In so doing, personal care aides would be afforded the protections of Maryland wage and employment law.

For these reasons, the Attorney General urges the Committee to favorably report Senate Bill 384.

cc: Members of the Finance Committee

¹ Md. Dep’t of Lab., *Employee or Independent Contractor? – The Maryland Guide to Wage Payment and Employment Standards*, <https://www.dllr.state.md.us/labor/wagepay/wpempindcont.shtml> (last visited Feb. 9, 2021).