

HOUSE BILL 810

P1

7lr0196

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: February 3, 2017

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2017

CHAPTER _____

1 AN ACT concerning

2 **Apprenticeships – Apprenticeship and Training Council – Revisions**

3 FOR the purpose of requiring the Division of Workforce Development and Adult Learning
4 to adopt regulations to carry out certain provisions of law; providing that the Division
5 is the designated State Apprenticeship Agency under certain provisions of federal
6 law; altering the duties of the Apprenticeship and Training Council; prohibiting
7 certain persons from taking certain actions regarding apprenticeship programs for
8 certain occupations unless the program is first approved by the Division, rather than
9 the Council; requiring that a certain certificate be issued by the Division, rather than
10 jointly by the Council and the Division; providing for certain judicial review if the
11 Division does not issue a certain certificate; authorizing the Division, rather than
12 the Council, to suspend or revoke approval of to deregister a program or course,
13 rather than the Council suspending or revoking the approval of a program or course,
14 under certain circumstances; authorizing certain persons to request a hearing before
15 the United States Department of Labor under certain circumstances; authorizing the
16 Division, rather than the Council, to adopt certain rules and regulations under
17 certain circumstances; authorizing the Council to recommend that the Division apply
18 to a certain court for a certain injunction; authorizing the Division to apply to a
19 certain court for a certain injunction under certain circumstances; requiring the
20 Division to accord reciprocal approval to certain apprentices, apprenticeship
21 programs, and standards that are registered in other states under certain
22 circumstances; prohibiting the Division from according reciprocal approval to a
23 program sponsor that does not meet certain requirements and standards;
24 authorizing the Council to recommend that the Division negotiate and adopt certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



reciprocity agreements; authorizing the Division to negotiate and adopt certain reciprocity agreements; repealing certain provisions of law rendered obsolete by certain provisions of this Act; requiring the Division, rather than the Council, to report certain information to the General Assembly; providing that the Division will request certain recognition from the Office of Apprenticeship in the U.S. Department of Labor and make certain adjustments; making conforming changes; and generally relating to apprenticeships.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 11–103, 11–403, 11–405, and 11–408
Annotated Code of Maryland
(2016 Replacement Volume)

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

Article – Labor and Employment

11–103.

(a) The Division shall:

- (1) promote apprenticeship and training programs;
- (2) administer job training, placement, and service programs;
- (3) implement the provisions of the federal Workforce Innovation and Opportunity Act;
- (4) administer adult education and literacy services programs;
- (5) conduct educational and job skills training programs in adult correctional facilities;
- (6) oversee any other units established pursuant to State or federal employment, training, or manpower statutes;
- (7) administer those programs assigned to the Division by law or designated by the Secretary; [and]
- (8) administer any community service employment programs delegated to the State under Title V of the federal Older Americans Act of 1965; **AND**
- (9) **ADOPT REGULATIONS TO CARRY OUT SUBTITLE 4 OF THIS TITLE.**

(b) The Division shall meet and confer on a regular basis with representatives of the State's community colleges, appointed by the Maryland Association of Community Colleges, and the adult education community, appointed by the Maryland Association for Adult Continuing and Community Education, to assure that adult education and literacy services and job training activities and resources are effectively coordinated.

11-403.

(a) THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING IS THE DESIGNATED STATE APPRENTICESHIP AGENCY UNDER TITLE 29, C.F.R. PARTS 29 AND 30.

(B) (1) There is an Apprenticeship and Training Council as part of the Division of Workforce Development and Adult Learning. The Council consists of 12 members all of whom shall be appointed by the Governor of Maryland, with the advice of the Secretary and with the advice and consent of the Senate of Maryland.

(2) Four of the members shall be representatives of employee organizations; one shall be an employee; five shall be representatives of employers; and two shall be appointed from the general public.

(3) The membership of the Council shall, to the extent practicable, reflect the geographic, racial, ethnic, cultural, and gender diversity of the State and shall include representation by individuals with disabilities. Consultants to the Council shall, to the extent practicable, reflect the geographic, racial, ethnic, cultural, and gender diversity of the State and shall include representation by individuals with disabilities.

(4) In advising the Governor, the Secretary shall give consideration to a balanced geographic representation from all of Maryland and a representative sampling and mix of Maryland industry.

(5) One member shall be appointed as Chairman by the Governor, with the advice of the Secretary, and serve as Chairman at the pleasure of the Governor. The Assistant State Superintendent, Career and Technology Education, and the Maryland State Director of the Office of Apprenticeship, U.S. Department of Labor, shall serve as consultants to the Council without vote.

(6) The Governor, with the advice of the Secretary may appoint up to three additional consultants to the Council from the public at large.

[(b)] (C) All appointments as members of the Council shall be for terms of 4 years.

[(c)] (D) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, a member shall be considered to have resigned

if the member did not attend at least two-thirds of the Council meetings held during any consecutive 12-month period while the member was serving on the Council.

(2) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(3) In accordance with § 8-501 of the State Government Article, the Chairman shall provide notice to the Governor and the Governor shall appoint a successor.
11-405.

(a) [Subject to subsection (d) of this section, the] **THE** duties of the Council[, consistent with the approval of the Division of Workforce Development and Adult Learning,] shall be to:

(1) [determine] **ADVISE THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING ON** the apprenticeability of occupations in the State of Maryland;

(2) encourage the establishment of local apprenticeship committees where the committees are needed ~~and approve their programs;~~

(3) [formulate and adopt] **MAKE RECOMMENDATIONS REGARDING THE FORMULATION AND ADOPTION OF** standards of apprenticeship which safeguard the welfare of apprentices, being guided, but not controlled, by the standards of apprenticeship recommended by the federal committee on apprenticeship;

(4) [formulate] **MAKE RECOMMENDATIONS REGARDING THE FORMULATION OF** policies for the overall apprenticeship program;

(5) [register] **MAKE RECOMMENDATIONS REGARDING THE REGISTRATION OF** standards of apprenticeship of the groups or employers that elect to conform with the provisions of this subtitle;

(6) [register] **MAKE RECOMMENDATIONS REGARDING THE REGISTRATION OF** apprenticeship agreements which conform to the standards of apprenticeship adopted by the [Council] **DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING;**

(7) ~~JOINTLY issue WITH THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING~~ **RECOMMEND THE ISSUANCE OF** certificates of completion of apprenticeship to apprentices who are registered with the ~~Council~~ **DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING** when ~~THE~~

DIVISION DETERMINES THAT such apprentices have completed successfully their apprenticeship;

(8) seek all information pertaining to apprenticeship training in the State;

(9) prescribe its rules of procedure and duties of the Chairman, Director, and Secretary subject to the provisions of this law; and

(10) perform other **ADVISORY** functions as the Governor or the Secretary may direct or as may come within the scope of the Council.

(b) (1) No person, firm, or corporation may offer, establish, maintain, or operate an apprenticeship program for any occupation approved by the [Council and recognized by the] Division of Workforce Development and Adult Learning as an apprenticeable occupation for which tuition, charges, or fees are charged to or are payable by an enrollee or student, or which is financed in whole or in part by State funds, unless the program is first approved by the [Council or the Secretary under subsection (d) of this section] **DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING.**

(2) **(I)** The [Council and the] Division of Workforce Development and Adult Learning [jointly] shall issue a certificate of approval to an applicant operating or proposing to operate the program if [they are satisfied, or the Secretary under subsection (d) of this section] **THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING** is satisfied[,] that the conditions of entrance, the qualifications of the administrators and instructors, the content of the program, the facilities, and the financial aspects of the program are adequate and appropriate for the purpose of the program.

(II) IF THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING DOES NOT ISSUE A CERTIFICATE OF APPROVAL TO AN APPLICANT OPERATING OR PROPOSING TO OPERATE A PROGRAM, ANY PERSON, FIRM, OR CORPORATION WHOSE APPLICATION IS REJECTED HAS A RIGHT TO JUDICIAL REVIEW UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(3) **(I)** The [Council] **DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING**, after notice and hearing, may ~~suspend or revoke its approval of~~ **DEREGISTER** a program or course if it[, or the Secretary under subsection (d) of this section,] finds that the program or course has ceased to meet the conditions of approval.

(II) ANY PERSON, ASSOCIATION, COMMITTEE, OR ORGANIZATION THAT OPERATES AN APPRENTICESHIP PROGRAM THAT IS DEREGISTERED BY THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING MAY REQUEST A HEARING BEFORE THE UNITED STATES DEPARTMENT OF LABOR.

~~(4) Any person, firm, or corporation whose application for approval is rejected or whose certificate of approval is suspended or revoked has a right of judicial review as provided in the Administrative Procedure Act.~~

~~(5)~~ [Except as otherwise provided in this section,] **AFTER CONSULTING** the Council, [in consultation with] the Division of Workforce Development and Adult Learning, after notice and hearing, may adopt rules and regulations for the implementation of this section, including rules and regulations requiring the furnishing of periodic relevant information about approved and proposed programs and the operator or proposed operator of the approved or proposed programs.

~~(6)~~ **(5)** Any person, firm, or corporation that knowingly offers, establishes, maintains, or operates a program in violation of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or be imprisoned for not more than one year, or both.

~~(7) (H) The Council[, consistent with the approval of the Division of Workforce Development and Adult Learning, in addition, shall] MAY RECOMMEND THAT THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING apply to any court of competent jurisdiction for an injunction restraining violations of this section.~~

~~(H)~~ **(6)** IF RECOMMENDED BY THE COUNCIL ~~UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH,~~ THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING MAY APPLY TO ANY COURT OF COMPETENT JURISDICTION FOR AN INJUNCTION RESTRAINING VIOLATIONS OF THIS SECTION.

(c) **(1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING SHALL ACCORD RECIPROCAL APPROVAL TO APPRENTICES, APPRENTICESHIP PROGRAMS, AND STANDARDS THAT ARE REGISTERED IN OTHER STATES BY THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR A REGISTRATION AGENCY, IF RECIPROCITY IS REQUESTED BY THE APPRENTICESHIP PROGRAM SPONSOR.**

(II) THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING MAY NOT ACCORD RECIPROCAL APPROVAL TO A PROGRAM SPONSOR THAT DOES NOT MEET THE WAGE AND HOUR REQUIREMENTS AND APPRENTICE RATIO STANDARDS OF THE RECIPROCAL STATE.

(2) The Council[, consistent with the approval of the Division of Workforce Development and Adult Learning,] may **RECOMMEND THAT THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING** negotiate and adopt agreements permitting reciprocity with apprenticeship and training councils of another state, or the United States Department of Labor, Office of Apprenticeship.

1 ~~(2)~~ **(3)** IF RECOMMENDED BY THE COUNCIL UNDER PARAGRAPH
2 **(1)** OF THIS SUBSECTION, THE DIVISION OF WORKFORCE DEVELOPMENT AND
3 ADULT LEARNING MAY NEGOTIATE AND ADOPT AGREEMENTS PERMITTING
4 RECIPROCITY WITH APPRENTICESHIP AND TRAINING COUNCILS OF ANOTHER
5 STATE, OR THE UNITED STATES DEPARTMENT OF LABOR, OFFICE OF
6 APPRENTICESHIP.

7 (d) [(1) If a disagreement arises between the Council and the Division of
8 Workforce Development and Adult Learning, as a result of a vote taken by the Council with
9 respect to any of the duties and responsibilities in subsections (a) through (c) of this section,
10 the Council may designate three Council members who voted in the majority to present the
11 position of the Council to the Secretary for consideration of the issue on which the Council
12 and the Division disagree.

13 (2) A representative of the Division of Workforce Development and Adult
14 Learning also shall have an opportunity to present the position of the Division to the
15 Secretary.

16 (3) (i) After consideration of the positions of the Council and the
17 Division of Workforce Development and Adult Learning, the Secretary shall issue a final
18 decision on the issue.

19 (ii) The final decision issued under subparagraph (i) of this
20 paragraph shall be the final agency decision.

21 (4) If a party other than the Council or the Division of Workforce
22 Development and Adult Learning is aggrieved by the decision of the Secretary, the party
23 shall be entitled to judicial review as provided in the Administrative Procedure Act.

24 (e)] (1) On or before June 30 of each year, the [Council] **DIVISION OF**
25 **WORKFORCE DEVELOPMENT AND ADULT LEARNING** shall report to the General
26 Assembly, in accordance with § 2–1246 of the State Government Article, the following
27 information for the immediately preceding calendar year:

28 (i) the completion and enrollment rates of each apprenticeship
29 program registered in the State; and

30 (ii) the age, race, sex or gender identity, county of residence, and
31 program enrollment of each individual enrolled in a registered apprenticeship program.

32 (2) The [Council] **DIVISION OF WORKFORCE DEVELOPMENT AND**
33 **ADULT LEARNING** shall:

34 (i) sort the information required under paragraph (1) of this
35 subsection by apprenticeship program; and

(ii) publish the report required under paragraph (1) of this subsection on the [Council's] **DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING'S** Web site.

11-408.

In order to assure compliance with federal laws governing wages, hours, and working conditions, the [Maryland Apprenticeship and Training Council] **DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING** will request recognition of its standards and activities by the Office of Apprenticeship, U.S. Department of Labor, and if necessary, make such adjustments in its standards and procedures as will assure conformity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.