

HOUSE BILL 579

D5
HB 317/19 – HGO

0lr2568
CF SB 364

By: **Delegate Cullison**

Introduced and read first time: January 27, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Commission on Civil Rights – Civil Penalties**

3 FOR the purpose of providing that certain maximum penalty amounts the Maryland
4 Commission on Civil Rights is authorized to seek if the Commission finds that a
5 respondent has engaged in a discriminatory act under certain provisions of law
6 regarding public accommodations and persons licensed or regulated by a certain unit
7 in the Maryland Department of Labor do not apply under certain circumstances;
8 prohibiting the Commission from seeking a civil penalty against a respondent if the
9 discriminatory act relates to accessibility, the respondent takes certain action, and
10 the respondent has not previously been the subject of a certain complaint; requiring
11 an administrative law judge to consider certain information when determining the
12 amount of a certain civil penalty; requiring certain civil penalties to be paid to a
13 certain complainant; requiring the Commission to report certain information to the
14 Governor and the General Assembly on or before a certain date in certain years; and
15 generally relating to the Maryland Commission on Civil Rights and civil penalties.

16 BY repealing and reenacting, without amendments,
17 Article – State Government
18 Section 20–304 and 20–402
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2019 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – State Government
23 Section 20–1016
24 Annotated Code of Maryland
25 (2014 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Government

20–304.

An owner or operator of a place of public accommodation or an agent or employee of the owner or operator may not refuse, withhold from, or deny to any person any of the accommodations, advantages, facilities, or privileges of the place of public accommodation because of the person's race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, or disability.

20–402.

A person that is licensed or regulated by a unit in the Maryland Department of Labor listed in § 2–108 of the Business Regulation Article may not refuse, withhold from, or deny any person any of the accommodations, advantages, facilities, privileges, sales, or services of the licensed or regulated person or discriminate against any person because of the person's race, sex, creed, color, national origin, marital status, sexual orientation, age, gender identity, or disability.

20–1016.

(a) Except as provided in [subsection] **SUBSECTIONS (b) AND (C)** of this section, in addition to any other relief authorized, if the Commission finds that a respondent has engaged in a discriminatory act under Subtitle 3 or Subtitle 4 of this title, the Commission may seek an order assessing a civil penalty against the respondent:

(1) if the respondent has not been adjudicated to have committed any prior discriminatory act, in an amount not exceeding \$500;

(2) if the respondent has been adjudicated to have committed one other discriminatory act during the 5–year period ending on the date of the filing of the current charge, in an amount not exceeding \$1,000; and

(3) if the respondent has been adjudicated to have committed two or more discriminatory acts during the 7–year period ending on the date of the filing of the current charge, in an amount not exceeding \$2,500.

(b) **(1)** If the discriminatory act is committed by an individual who has been previously adjudicated to have committed one or more discriminatory acts, the time periods set forth in subsection (a)(2) and (3) of this section do not apply.

(2) IF THE DISCRIMINATORY ACT IS COMMITTED BY THE AGENT OR EMPLOYEE OF A RESPONDENT, THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION (A)(2) AND (3) OF THIS SECTION DO NOT APPLY AND THE COMMISSION MAY SEEK AN ORDER ASSESSING A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING \$25,000, PROVIDED THAT:

1 **(I) THE DISCRIMINATORY ACT COMMITTED BY THE AGENT OR**
2 **EMPLOYEE IS DETERMINED TO BE MALICIOUS; AND**

3 **(II) THE RESPONDENT HAS NOT REASONABLY MITIGATED HARM**
4 **CAUSED BY THE DISCRIMINATORY ACT.**

5 **(3) THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION (A)(2) AND**
6 **(3) OF THIS SECTION DO NOT APPLY IF THE DISCRIMINATORY ACT IS FOUND TO BE**
7 **MALICIOUS.**

8 **(C) THE COMMISSION MAY NOT SEEK AN ORDER ASSESSING A CIVIL**
9 **PENALTY AGAINST A RESPONDENT IF:**

10 **(1) THE DISCRIMINATORY ACT WAS LIMITED TO A VIOLATION**
11 **RELATING TO ACCESSIBILITY;**

12 **(2) THE RESPONDENT, AFTER BEING SERVED, TAKES PROMPT**
13 **CORRECTIVE ACTION; AND**

14 **(3) THE RESPONDENT HAS NOT PREVIOUSLY BEEN THE SUBJECT OF A**
15 **COMPLAINT UNDER § 20–1004 OF THIS SUBTITLE.**

16 **(D) IF THE COMMISSION SEEKS AN ORDER ASSESSING A CIVIL PENALTY**
17 **BEFORE AN ADMINISTRATIVE LAW JUDGE UNDER § 20–1008 OF THIS SUBTITLE, IN**
18 **DETERMINING THE AMOUNT OF THE CIVIL PENALTY TO BE IMPOSED, THE**
19 **ADMINISTRATIVE LAW JUDGE SHALL CONSIDER:**

20 **(1) THE SERIOUSNESS OF THE DISCRIMINATORY ACT;**

21 **(2) THE GOOD FAITH OF THE RESPONDENT;**

22 **(3) THE HARMFUL EFFECT TO THE PUBLIC OF THE DISCRIMINATORY**
23 **ACT;**

24 **(4) THE HARMFUL EFFECT OF THE RESPONDENT’S ACTIONS ON THE**
25 **INVESTIGATORY PROCESS OF THE COMMISSION; AND**

26 **(5) THE RESPONDENT’S ASSETS.**

27 **[(c)] (E) Any civil penalties collected under this section shall be paid to the**
28 **[General Fund of the State] COMPLAINANT.**

29 **SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2021, and**
30 **on or before July 1 of each of the immediately following 4 years, the Maryland Commission**

1 on Civil Rights shall submit a report to the Governor and, in accordance with § 2–1257 of
2 the State Government Article, the General Assembly regarding the effect Section 1 of this
3 Act has had on persons against whom complaints have been filed under Title 20 of the State
4 Government Article.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.