

# SENATE BILL 688

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CF 0lr3219

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By: **Senators Klausmeier and Elfreth**

Introduced and read first time: February 3, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commissioner of Labor and Industry – Construction Services – Stop Work**  
3 **Orders**

4 FOR the purpose of requiring the Commissioner of Labor and Industry to issue a certain  
5 stop work order to certain employers for certain violations of certain provisions of  
6 law; providing that a certain stop work order takes effect at a certain time and  
7 remains in effect until the Commissioner takes a certain action; requiring the  
8 Commissioner to issue an order releasing a certain stop work order under certain  
9 circumstances; authorizing the Commissioner to order certain employers to file  
10 certain periodic reports as a condition of releasing a stop work order; requiring that  
11 certain reports cover a certain period and include copies of certain records;  
12 authorizing certain employers to submit a request for a hearing to the Commissioner  
13 within a certain time period after receiving a stop work order; requiring that a  
14 stop work order become a final order of the Commissioner under certain  
15 circumstances; requiring the Commissioner to delegate a certain request for a  
16 hearing to the Office of Administrative Hearings for certain purposes; providing that  
17 certain employers are entitled to a certain hearing within a certain time period;  
18 requiring the Commissioner to provide certain copies of certain evidence to the Office  
19 within a certain time period in accordance with certain provisions of law; providing  
20 that the Commissioner has a certain burden of proof; requiring that a certain  
21 decision by an administrative law judge become the final order of the Commissioner;  
22 authorizing certain parties to seek certain judicial appeal and review under certain  
23 provisions of law; defining certain terms; and generally relating to the issuance of  
24 stop work orders by the Commissioner of Labor and Industry.

25 BY adding to  
26 Article – Labor and Employment  
27 Section 2–105.1  
28 Annotated Code of Maryland  
29 (2016 Replacement Volume and 2019 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

**Article – Labor and Employment**

**2-105.1.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
INDICATED.

(2) “CONSTRUCTION SERVICES” HAS THE MEANING STATED IN §  
3-901 OF THIS ARTICLE.

(3) “EMPLOYER” MEANS ANY PERSON THAT EMPLOYS AN INDIVIDUAL  
FOR THE PURPOSE OF PROVIDING CONSTRUCTION SERVICES IN THE STATE.

(B) (1) WITHIN 72 HOURS AFTER DETERMINING THAT AN EMPLOYER HAS  
COMMITTED A SECOND VIOLATION OF TITLE 3, SUBTITLE 4, 5, OR 9 OF THIS  
ARTICLE, THE COMMISSIONER SHALL ISSUE A STOP WORK ORDER REQUIRING THE  
CESSATION OF ALL BUSINESS OPERATIONS AT EACH WORKSITE WHERE THE  
EMPLOYEES WITH RESPECT TO WHOM THE VIOLATION OCCURRED WORKED OR ARE  
WORKING.

(2) THE STOP WORK ORDER REQUIRED UNDER PARAGRAPH (1) OF  
THIS SUBSECTION SHALL:

(I) TAKE EFFECT WHEN SERVED ON THE EMPLOYER OR WHEN  
SERVED AT A WORKSITE; AND

(II) REMAIN IN EFFECT UNTIL THE COMMISSIONER ISSUES AN  
ORDER RELEASING THE STOP WORK ORDER UNDER SUBSECTION (D) OF THIS  
SECTION.

(C) (1) WITHIN 72 HOURS AFTER DETERMINING THAT AN EMPLOYER HAS  
COMMITTED A THIRD VIOLATION OF TITLE 3, SUBTITLE 4, 5, OR 9 OF THIS ARTICLE,  
THE COMMISSIONER SHALL ISSUE A STOP WORK ORDER REQUIRING THE CESSATION  
OF ALL BUSINESS OPERATIONS OF THE EMPLOYER.

(2) THE STOP WORK ORDER REQUIRED UNDER PARAGRAPH (1) OF  
THIS SUBSECTION SHALL:

(I) TAKE EFFECT WHEN SERVED ON THE EMPLOYER; AND

(II) REMAIN IN EFFECT UNTIL THE COMMISSIONER ISSUES AN

1 ORDER RELEASING THE STOP WORK ORDER UNDER SUBSECTION (D) OF THIS  
2 SECTION.

3 (D) THE COMMISSIONER SHALL ISSUE AN ORDER RELEASING A STOP WORK  
4 ORDER ISSUED UNDER SUBSECTION (B) OR (C) OF THIS SECTION ON A SHOWING BY  
5 THE EMPLOYER THAT:

6 (1) THE EMPLOYER IS PROPERLY PAYING EMPLOYEES IN  
7 ACCORDANCE WITH TITLE 3, SUBTITLES 4 AND 5 OF THIS ARTICLE OR IS PROPERLY  
8 CLASSIFYING EMPLOYEES IN ACCORDANCE WITH TITLE 3, SUBTITLE 9 OF THIS  
9 ARTICLE; AND

10 (2) THE EMPLOYER HAS PAID ALL PENALTIES ASSESSED AGAINST THE  
11 EMPLOYER BY THE COMMISSIONER UNDER TITLE 3, SUBTITLE 4, 5, OR 9 OF THIS  
12 ARTICLE.

13 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AS A  
14 CONDITION OF RELEASING A STOP WORK ORDER UNDER THIS SECTION, THE  
15 COMMISSIONER MAY REQUIRE THE EMPLOYER TO FILE PERIODIC REPORTS WITH  
16 THE COMMISSIONER.

17 (2) THE REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS  
18 SUBSECTION SHALL COVER A 2-YEAR PERIOD AND INCLUDE COPIES OF:

19 (I) THE RECORDS AND REPORTS REQUIRED UNDER § 3-305 OF  
20 THIS ARTICLE;

21 (II) THE WAGE RECORDS REQUIRED UNDER § 3-424 OF THIS  
22 ARTICLE; AND

23 (III) THE RECORDS REQUIRED UNDER § 3-914 OF THIS ARTICLE.

24 (F) (1) (I) WITHIN 72 HOURS AFTER AN EMPLOYER RECEIVES A  
25 STOP WORK ORDER UNDER SUBSECTION (B) OR (C) OF THIS SECTION, THE  
26 EMPLOYER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE  
27 COMMISSIONER ON THE STOP WORK ORDER.

28 (II) IF A HEARING IS NOT REQUESTED WITHIN 72 HOURS, THE  
29 STOP WORK ORDER SHALL BECOME A FINAL ORDER OF THE COMMISSIONER.

30 (2) IF THE EMPLOYER REQUESTS A HEARING, THE COMMISSIONER  
31 SHALL DELEGATE TO THE OFFICE OF ADMINISTRATIVE HEARINGS THE AUTHORITY  
32 TO HOLD A HEARING AND ISSUE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND AN

1 ORDER, IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT  
2 ARTICLE.

3 (3) THE EMPLOYER IS ENTITLED TO A HEARING WITHIN 90 DAYS  
4 AFTER A TIMELY REQUEST IS MADE UNDER THIS SUBSECTION, UNLESS THE  
5 EMPLOYER WAIVES THAT RIGHT.

6 (4) WITHIN 15 DAYS AFTER A REQUEST, IN ACCORDANCE WITH THE  
7 PUBLIC INFORMATION ACT AND THE APPLICABLE REGULATIONS OF THE  
8 COMMISSIONER AND THE OFFICE OF ADMINISTRATIVE HEARINGS, THE  
9 COMMISSIONER SHALL PROVIDE COPIES OF ALL RELEVANT EVIDENCE, INCLUDING  
10 A LIST OF POTENTIAL WITNESSES, ON WHICH THE COMMISSIONER INTENDS TO RELY  
11 AT ANY ADMINISTRATIVE HEARING UNDER THIS SUBTITLE.

12 (5) THE COMMISSIONER HAS THE BURDEN OF PROOF TO SHOW THAT  
13 AN EMPLOYER HAS FAILED TO PAY EMPLOYEES IN ACCORDANCE WITH TITLE 3,  
14 SUBTITLES 4 AND 5 OF THIS ARTICLE OR PROPERLY CLASSIFIED EMPLOYEES UNDER  
15 TITLE 3, SUBTITLE 9 OF THIS ARTICLE.

16 (6) A DECISION OF AN ADMINISTRATIVE LAW JUDGE ISSUED IN  
17 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE  
18 SHALL BECOME A FINAL ORDER OF THE COMMISSIONER.

19 (7) ANY PARTY AGGRIEVED BY A FINAL ORDER OF THE  
20 COMMISSIONER UNDER THIS SECTION MAY SEEK JUDICIAL REVIEW AND APPEAL  
21 UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2020.