

HOUSE BILL 525

C8, Q7

0lr1260

By: **Delegates Stewart, Acevero, Boyce, Lehman, R. Lewis, Moon, Palakovich Carr, and Solomon**

Introduced and read first time: January 27, 2020

Assigned to: Ways and Means and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Phase Out Company Giveaways Act**

3 FOR the purpose of establishing the Interstate Compact to Phase Out Company Giveaways
4 as a compact among member states; stating the findings of member states;
5 prohibiting member states from offering or providing certain company giveaways as
6 an inducement to relocate certain facilities to a member state subject to certain
7 exclusions; authorizing member states to withdraw from the Compact with certain
8 notice in a certain manner; requiring the chief law enforcement officer of member
9 states to enforce the Compact; providing standing in a court of law to certain
10 residents for a certain legal action; establishing the National Board of the Interstate
11 Compact to Phase Out Company Giveaways; providing for the membership, purpose,
12 and duties of the Board; providing for the construction of this Act; making the
13 provisions of this Act severable; requiring this Act to have a certain reference;
14 defining certain terms; and generally relating to the Interstate Compact to Phase
15 Out Company Giveaways.

16 BY adding to

17 Article – Economic Development

18 Section 1.5–101 to be under the new title “Title 1.5. General Provisions”

19 Annotated Code of Maryland

20 (2018 Replacement Volume and 2019 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

23 **Article – Economic Development**

24 **TITLE 1.5. GENERAL PROVISIONS.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SUBTITLE 1. INTERSTATE COMPACT TO PHASE OUT COMPANY GIVEAWAYS.

1.5–101.

ARTICLE I

ENACTMENT OF COMPACT

THE INTERSTATE COMPACT TO PHASE OUT COMPANY GIVEAWAYS IS ENACTED INTO LAW AND ENTERED INTO WITH ANY OTHER STATE OR THE DISTRICT OF COLUMBIA LEGALLY ENACTING THIS COMPACT IN SUBSTANTIALLY THE FOLLOWING FORM.

ARTICLE II

DEFINITIONS

1. “COMPANY FACILITY” MEANS ANY COMPANY HEADQUARTERS, OFFICE SPACE, MANUFACTURING FACILITY, OR OTHER REAL ESTATE DEVELOPMENT.

2. “COMPANY GIVEAWAY” MEANS ANY COMPANY– OR INDUSTRY–SPECIFIC GRANT OR TAX INCENTIVE.

3. “COMPANY–SPECIFIC GRANT” MEANS ANY DISBURSEMENT OF FUNDS THROUGH PROPERTY, CASH, OR DEFERRED TAX LIABILITY BY A MEMBER STATE OR A LOCAL GOVERNMENT OF THE MEMBER STATE TO A SPECIFIC COMPANY THAT IS NOT OFFERED TO OTHER SIMILARLY SITUATED COMPANIES.

4. (A) “COMPANY–SPECIFIC TAX INCENTIVE” MEANS ANY CHANGE IN THE GENERAL TAX RATE OR VALUATION OFFERED TO A SPECIFIC COMPANY THAT IS NOT AVAILABLE TO OTHER SIMILARLY SITUATED COMPANIES.

(B) “COMPANY–SPECIFIC TAX INCENTIVE” INCLUDES TAX EXEMPTIONS, DEDUCTIONS, OR CREDITS.

5. “INDUSTRY–SPECIFIC GRANT” MEANS ANY DISBURSEMENT OF FUNDS THROUGH PROPERTY, CASH, OR DEFERRED TAX LIABILITY BY A MEMBER STATE OR A LOCAL GOVERNMENT OF THE MEMBER STATE TO A COMPANY WITHIN A SPECIFIC INDUSTRY.

6. (A) “INDUSTRY–SPECIFIC TAX INCENTIVE” MEANS ANY CHANGE IN THE GENERAL TAX RATE OR VALUATION OFFERED TO A COMPANY WITHIN A SPECIFIC INDUSTRY THAT IS NOT AVAILABLE TO OTHER SIMILARLY SITUATED

COMPANIES.

(B) "INDUSTRY-SPECIFIC TAX INCENTIVE" INCLUDES TAX EXEMPTIONS, DEDUCTIONS, OR CREDITS.

7. "MEMBER STATE" MEANS ANY STATE OR THE DISTRICT OF COLUMBIA THAT HAS ENACTED THIS COMPACT SUBSTANTIALLY AS IT APPEARS IN THIS SECTION.

ARTICLE III

FINDINGS

THE MEMBER STATES FIND THAT:

1. COMPANY GIVEAWAYS ARE AMONG THE LEAST EFFECTIVE USES OF TAXPAYER DOLLARS TO CREATE AND MAINTAIN JOBS;

2. LOCAL AND STATE LEADERS ARE IN A PRISONERS' DILEMMA WHERE IT IS BEST FOR ALL TO CREATE A LEVEL PLAYING FIELD FOR ALL EMPLOYERS WITHOUT ANY COMPANY GIVEAWAYS, BUT EACH LEVEL OF GOVERNMENT HAS AN INCENTIVE TO SUBSIDIZE A COMPANY, GENERATING A RACE TO THE BOTTOM;

3. GOVERNMENTS SHOULD ATTRACT AND RETAIN COMPANIES NOT BASED ON COMPANY GIVEAWAYS BUT BASED ON GENERAL CONDITIONS OF THE STATE, INCLUDING MODERN INFRASTRUCTURE, AN EDUCATED WORKFORCE, A CLEAN ENVIRONMENT, AND A GENERALLY FAVORABLE TAX AND REGULATORY BUSINESS CLIMATE;

4. COMPANY GIVEAWAYS FUEL BUSINESS INEQUALITY AS ONLY THE LARGEST COMPANIES RECEIVE THE VAST MAJORITY OF THESE GIVEAWAYS;

5. A REASONABLE FIRST STEP IN PHASING OUT COMPANY GIVEAWAYS IS AN ANTIPOACHING AGREEMENT AMONG MEMBER STATES PROHIBITING COMPANY GIVEAWAYS AS AN INDUCEMENT FOR ENTITIES TO RELOCATE EXISTING COMPANY FACILITIES; AND

6. CREATING A NATIONAL BOARD OF GUBERNATORIAL APPOINTEES CHARGED WITH FINDING CONSENSUS AROUND IMPROVEMENTS TO THIS COMPACT OVER TIME IN A PHASED APPROACH WILL ASSIST STATE AND LOCAL GOVERNMENTS IN ESCAPING FROM THE PRISONERS' DILEMMA AND IMPLEMENTING A LEVEL PLAYING FIELD FOR ALL COMPANIES.

ARTICLE IV

ANTIPOACHING PROVISION

EACH MEMBER STATE IS PROHIBITED FROM OFFERING OR PROVIDING ANY COMPANY GIVEAWAYS AS AN INDUCEMENT TO RELOCATE COMPANY FACILITIES TO THE MEMBER STATE.

ARTICLE V

EXCLUSIONS

1. WORKFORCE DEVELOPMENT GRANTS THAT ARE USED TO TRAIN EMPLOYEES ARE NOT SUBJECT TO THIS COMPACT.

2. STATE AND LOCAL COMPANY GIVEAWAYS TO COMPANIES WITH COMPANY FACILITIES LOCATED WITHIN THE STATE OR LOCAL JURISDICTION ARE NOT SUBJECT TO THIS COMPACT.

ARTICLE VI

WITHDRAWALS

ANY MEMBER STATE MAY WITHDRAW FROM THIS COMPACT WITH 6 MONTHS' NOTICE AND SHALL PROVIDE THE NOTICE IN WRITING TO THE CHIEF EXECUTIVE OFFICER OF EVERY OTHER MEMBER STATE.

ARTICLE VII

ENFORCEMENT

1. THE CHIEF LAW ENFORCEMENT OFFICER OF EACH MEMBER STATE SHALL ENFORCE THIS COMPACT.

2. A RESIDENT OF A MEMBER STATE WHO PAYS TAXES HAS STANDING IN THE COURTS OF ANY MEMBER STATE TO REQUIRE THE CHIEF LAW ENFORCEMENT OFFICER OF THAT MEMBER STATE TO ENFORCE THIS COMPACT.

ARTICLE VIII

NATIONAL BOARD

1. A NATIONAL BOARD OF THE INTERSTATE COMPACT TO PHASE OUT

1 COMPANY GIVEAWAYS IS ESTABLISHED BY THIS COMPACT.

2 2. EACH CHIEF EXECUTIVE OFFICER OF EACH MEMBER STATE SHALL
3 APPOINT ONE MEMBER TO THE BOARD.

4 3. THE BOARD SHALL ACCEPT APPOINTEES FROM
5 NONMEMBER STATES THAT WISH TO APPOINT A MEMBER TO THE BOARD.

6 4. THE PURPOSE OF THE BOARD IS TO PUBLISH SUGGESTED REVISIONS TO
7 THIS COMPACT IN DECEMBER EACH YEAR TO CONTINUE TO PHASE OUT THE
8 COMPANY GIVEAWAYS THAT THE BOARD FINDS REASONABLE TO INCLUDE AS
9 SUGGESTED REVISIONS TO THIS COMPACT FOR MEMBER STATES TO CONSIDER
10 IMPLEMENTING.

11 5. THE BOARD SHALL:

12 (A) CONVENE AT LEAST ANNUALLY;

13 (B) ELECT OFFICERS FROM ITS MEMBERS;

14 (C) ESTABLISH RULES AND PROCEDURES FOR ITS GOVERNANCE; AND

15 (D) PUBLISH A REPORT ANNUALLY IN DECEMBER THAT INCLUDES
16 SUGGESTED REVISIONS AND IMPROVEMENTS TO THIS COMPACT.

17 6. THE BOARD SHALL COLLECT TESTIMONY FROM ALL INTERESTED
18 PARTIES, INCLUDING ORGANIZATIONS AND ASSOCIATIONS REPRESENTING STATE
19 AND LOCAL LEGISLATORS, TAXPAYERS, AND SUBJECT MATTER EXPERTS, ON HOW
20 THIS COMPACT CAN BE IMPROVED AND STRENGTHENED.

21 ARTICLE IX

22 CONSTRUCTION AND SEVERABILITY

23 1. THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS
24 PURPOSES.

25 2. IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS COMPACT,
26 OR THE APPLICABILITY OF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS
27 COMPACT TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE IS
28 DECLARED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO BE
29 CONTRARY TO THE UNITED STATES CONSTITUTION OR IS OTHERWISE HELD
30 INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE

3 **3. IF THIS COMPACT IS HELD TO BE CONTRARY TO THE CONSTITUTION OF**
4 **ANY MEMBER STATE, THIS COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS**
5 **TO THE OTHER MEMBER STATES AND IN FULL FORCE AND EFFECT AS TO THE**
6 **AFFECTED MEMBER STATES AS TO ALL SEVERABLE MATTERS.**

ARTICLE X

9 **THIS COMPACT SHALL BE REFERRED TO AS THE INTERSTATE COMPACT TO**
0 **PHASE OUT COMPANY GIVEAWAYS.**

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