

HOUSE BILL 1018

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CF SB 780

By: **Delegates D.E. Davis, W. Fisher, and Harrison**

Introduced and read first time: February 5, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Economic Stabilization Act – Revisions**

3 FOR the purpose of requiring the Secretary of Labor to develop certain mandatory, rather
4 than voluntary, guidelines for employers faced with a reduction in operations;
5 altering required contents of the guidelines; requiring an employer to provide written
6 notice to certain persons within a certain time period before initiating a reduction in
7 operations; requiring that the notice include certain information and a certain
8 statement; requiring the Commissioner to issue a certain order under certain
9 circumstances; authorizing the Commissioner to assess a certain civil penalty for
10 certain violations of this Act under certain circumstances; requiring the
11 Commissioner to consider certain factors in determining the amount of a certain
12 penalty; subjecting the assessment of a certain penalty to certain requirements;
13 defining a certain term; altering a certain definition; making stylistic and conforming
14 changes; and generally relating to the Economic Stabilization Act.

15 BY repealing and reenacting, with amendments,
16 Article – Labor and Employment
17 Section 11–301 and 11–304(b)
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2019 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Labor and Employment
22 Section 11–302, 11–303, and 11–304(a)
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2019 Supplement)

25 BY adding to
26 Article – Labor and Employment
27 Section 11–305 and 11–306
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2016 Replacement Volume and 2019 Supplement)

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

Article – Labor and Employment

11–301.

(a) In this subtitle the following words have the meanings indicated.

(b) **(1) “EMPLOYEE” MEANS AN INDIVIDUAL WHO WORKS FOR AN
EMPLOYER FOR AN HOURLY OR SALARIED WAGE OR IN A MANAGERIAL AND
SUPERVISORY CAPACITY.**

**(2) “EMPLOYEE” DOES NOT INCLUDE INDIVIDUALS WHO WORK LESS
THAN AN AVERAGE OF 20 HOURS PER WEEK OR HAVE WORKED FOR AN EMPLOYER
FOR LESS THAN 6 MONTHS IN THE IMMEDIATELY PRECEDING 12 MONTHS.**

**(C) (1) “Employer” means any person, corporation, or other entity that employs
at least 50 [individuals] EMPLOYEES and operates an industrial, commercial, or business
enterprise in the State.**

(2) “Employer” does not include the State or its political subdivisions or any
employer who has been doing business in the State less than 1 year.

[(c)] (D) “Reduction in operations” includes:

(1) the relocation of a part of an employer’s operation from 1 workplace to
another existing or proposed site; or

(2) the shutting down of a workplace or a portion of the operations of a
workplace that reduces the number of employees by at least 25 percent or 15 employees,
whichever is greater, over any 3–month period.

**[(d)] (E) (1) “Workplace” includes a factory, plant, office or other facility
where employees produce goods or provide services.**

(2) “Workplace” does not include a construction site or other temporary
workplace.

11–302.

This subtitle does not apply to reductions in operations if the reduction:

(1) results solely from labor disputes;

(2) occurs in a commercial, industrial, or agricultural enterprise operated by this State or its political subdivisions;

(3) occurs at construction sites or other temporary workplaces;

(4) results from seasonal factors that are determined by the Department to be customary in the industry; or

(5) results when an employer files for bankruptcy under federal bankruptcy laws.

11-303.

There shall be a quick response program to provide both employers and employees with services to assist in mitigating the impact on employees that occurs with a reduction in operations.

11-304.

(a) The State's quick response program is under the direction of the Secretary.

(b) (1) The Secretary in cooperation with the Workforce Development Board shall develop [voluntary] **MANDATORY** guidelines for employers faced with a reduction in operations.

(2) [These] **THE** guidelines **DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION** shall include:

[(1)] (I) [the appropriate length of time for advance notification to employees] **SUBJECT TO § 11-305 OF THIS SUBTITLE, A WRITTEN NOTICE** that an employer expects to terminate **EMPLOYEES** due to a reduction in operations[. Whenever possible and appropriate, at least 90 days notice shall be given];

[(2)] (II) the [appropriate] continuation of benefits, such as health, severance, and pension, that an employer should provide to employees who will be terminated due to a reduction in operations; or

[(3)] (III) the specific mechanisms that employers can [utilize] **USE** to ask for the assistance of the State's quick response program.

11-305.

(A) **AN EMPLOYER SHALL PROVIDE WRITTEN NOTICE AT LEAST 90 DAYS BEFORE INITIATING A REDUCTION IN OPERATIONS TO:**

(1) ALL EMPLOYEES AT THE WORKPLACE THAT IS SUBJECT TO THE REDUCTION IN OPERATIONS;

(2) EACH EXCLUSIVE REPRESENTATIVE OR BARGAINING AGENCY THAT REPRESENTS EMPLOYEES AT THE WORKPLACE THAT IS SUBJECT TO THE REDUCTION IN OPERATIONS;

(3) INDIVIDUALS WHO WORK LESS THAN 20 HOURS ON AVERAGE EACH WEEK OR HAVE WORKED FOR THE EMPLOYER FOR LESS THAN 6 MONTHS IN THE IMMEDIATELY PRECEDING 12 MONTHS AT THE WORKPLACE THAT IS SUBJECT TO THE REDUCTION IN OPERATIONS;

(4) THE DIVISION'S DISLOCATED WORKER UNIT; AND

(5) ALL ELECTED OFFICIALS IN THE JURISDICTION WHERE THE WORKPLACE THAT IS SUBJECT TO THE REDUCTION IN OPERATIONS IS LOCATED.

(B) THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE NAME AND ADDRESS OF THE WORKPLACE WHERE THE REDUCTION OF OPERATIONS IS EXPECTED TO OCCUR;

(2) THE NAME, TELEPHONE NUMBER, AND E-MAIL ADDRESS OF A WORKPLACE SUPERVISORY EMPLOYEE AS A CONTACT FOR SEEKING FURTHER INFORMATION;

(3) A STATEMENT THAT EXPLAINS WHETHER THE REDUCTION IN OPERATIONS IS EXPECTED TO BE PERMANENT OR TEMPORARY AND WHETHER THE WORKPLACE IS EXPECTED TO SHUT DOWN; AND

(4) THE EXPECTED DATE WHEN THE REDUCTION IN OPERATIONS WILL BEGIN.

11-306.

(A) IF THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS VIOLATED § 11-305 OF THIS SUBTITLE, THE COMMISSIONER:

(1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

(2) MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A CIVIL PENALTY OF UP TO \$10,000 PER DAY FOR EACH DAY THAT AN EMPLOYER VIOLATED

1 **§ 11–305 OF THIS SUBTITLE.**

2 **(B) IN DETERMINING THE AMOUNT OF THE PENALTY, IF ASSESSED, THE**
3 **COMMISSIONER SHALL CONSIDER:**

4 **(1) THE GRAVITY OF THE VIOLATION;**

5 **(2) THE SIZE OF THE EMPLOYER’S BUSINESS;**

6 **(3) THE EMPLOYER’S GOOD FAITH; AND**

7 **(4) THE EMPLOYER’S HISTORY OF VIOLATIONS UNDER THIS**
8 **SUBTITLE.**

9 **(C) THE ASSESSMENT OF A PENALTY UNDER SUBSECTION (A)(2) OF THIS**
10 **SECTION SHALL BE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF**
11 **TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

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