

Chapter 407

(Senate Bill 780)

AN ACT concerning

Labor and Employment – Economic Stabilization Act – Revisions

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

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

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

BY adding to
 Article – Labor and Employment
 Section 11–305 and 11–306
 Annotated Code of Maryland
 (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~~ 60 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~~ SECRETARY, OR THE SECRETARY'S DESIGNEE, DETERMINES THAT AN EMPLOYER HAS VIOLATED § 11-305 OF THIS SUBTITLE, THE ~~COMMISSIONER~~ SECRETARY, OR THE SECRETARY'S DESIGNEE:

(1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

(2) MAY, IN THE ~~COMMISSIONER'S~~ SECRETARY'S, OR THE SECRETARY'S DESIGNEE'S, DISCRETION, ASSESS A CIVIL PENALTY OF UP TO \$10,000 PER DAY FOR EACH DAY THAT AN EMPLOYER VIOLATED § 11-305 OF THIS SUBTITLE.

(B) IN DETERMINING THE AMOUNT OF THE PENALTY, IF ASSESSED, THE ~~COMMISSIONER~~ SECRETARY, OR THE SECRETARY'S DESIGNEE, SHALL CONSIDER:

(1) THE GRAVITY OF THE VIOLATION;

- (2) THE SIZE OF THE EMPLOYER’S BUSINESS;**
- (3) THE EMPLOYER’S GOOD FAITH; AND**
- (4) THE EMPLOYER’S HISTORY OF VIOLATIONS UNDER THIS SUBTITLE.**

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.