

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

House Bill 1393  
Economic Matters

(Delegate Ramirez, *et al.*)

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Labor and Employment - Maryland Wage and Hour Law - Criminal Penalties

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This bill increases misdemeanor penalties for employers that do not comply with Maryland Wage and Hour Law, establishing maximum penalties of a \$2,500 fine and/or 90 days imprisonment for a first violation. Subsequent violations occurring within six years of a preceding violation are subject to maximum penalties of a \$5,000 fine and/or 180 days imprisonment. Each workweek for which an employer does not pay the wage required under Maryland Wage and Hour Law is considered a separate offense.

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Fiscal Summary

**State Effect:** Since it is assumed that the bill would apply in a limited number of cases, State finances should not be affected.

**Local Effect:** Since it is assumed that the bill would apply in a limited number of cases, local finances should not be affected.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law:** The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act of 1938. State law sets minimum wage standards with the purpose of providing a maintenance level consistent with the needs of the population for their efficiency, general well-being, and health.

Under Maryland Wage and Hour Law, employers, including governmental units, are generally required to pay each employee the greater of the federal minimum wage (currently \$5.85) or an hourly wage of \$6.15. Exceptions exist for training wages and disabled employees of a sheltered workshop.

Employers are required to pay an overtime wage of at least 1.5 times the usual hourly wage. This requirement does not apply to • an employer that is subject to federal rail laws; • a hotel or motel; • a restaurant; • a gasoline service station; • a bona fide private country club; • a nonprofit entity primarily engaged in providing temporary at-home care services; • a nonprofit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or • specified amusement or recreational establishments. It also does not apply to • an employee for whom the U.S. Secretary of Transportation sets qualifications and maximum hours of service under federal law; • a mechanic, partsperson, or salesperson, under certain conditions; or • drivers employed by a taxicab operator. An employer has to compute the wage for overtime on the basis of each hour over 40 hours that an employee works during one work week. Specific exemptions apply for farm work, bowling establishments, and infirmaries.

The Maryland Wage and Hour Law does not apply to certain categories of employees, including • those defined as administrative, executive, or professional; • certain seasonal employees; • part-time employees younger than age 16 or older than age 61; • salesmen and those who work on commission; • an employer's immediate family; • movie theater employees; • employees training in a special education program in a public school; • employees of an establishment that sells food and drink for on-premises consumption; and • certain farm workers.

In addition to wage provisions, the Maryland Wage and Hour Law prohibits an employer from delaying the Commissioner of Labor and Industry in enforcing the law or discharging an employee for bringing an action against the employer. An employee is prohibited from making a complaint in bad faith. A violation of the Maryland Wage and Hour Law is a misdemeanor, subject to a fine of up to \$1,000.

**Background:** The Department of Labor, Licensing, and Regulation advises that an action has not been taken against an employer under the existing penalty provision in more than five years. Nonetheless, the department advises that the threat of court action and criminal penalty may have the effect of increasing voluntary compliance.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 12, 2008  
mll/ljm

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