



Maryland Chamber of Commerce

**SB 451
OPPOSE
Finance
Committee
02/26/09**

Legislative Position

SB 451

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

Brief Summary of Bill:

SB 451 increases criminal penalties for violations of specified wage and hour laws. It increases the maximum fine for a first violation from \$1,000 to \$2,500. It establishes that each occurrence of a specified violation for a specified period is a separate offense.

Maryland Chamber's Position:

The Maryland Chamber of Commerce opposes this bill. This legislation proposes to increase criminal penalties for violations of the Wage and Hour law. These penalties are applicable not only to underpayment of minimum wages and overtime rates, but also to other acts covered by the Wages and Hours Subtitle, including posting of the wage/hour poster in the workplace, making and retaining records related to pay and requiring nursing employees to work overtime.

The current statute provides for a criminal fine not exceeding \$1,000. This proposed legislation would provide for a criminal fine not exceeding \$2,500 for a first violation and not exceeding \$5,000 for "each subsequent violation". The bill also provides that for every workweek in which the employer does not pay the wage required is a separate offense.

The criminal penalties, unlike those under the federal statute, are not limited to willful violations. The wage/hour law is highly technical in some areas, and there are situations where it is not clear cut how employees must be treated (the white collar exemptions are one such area where courts disagree as to exactly which employees are covered by the exemption). In those cases, it is necessary to have the dispute settled in court – a process that can take months, if not years.

Under the proposed legislation, an employer who is attempting to comply in good faith with the law, but makes a mistake as to an employee's classification would be subject multiple criminal penalties. This is an extreme and unnecessary proposal that unjustly punishes employers who truly desire to comply with current law.

For these reasons, the Maryland Chamber respectfully requests that the Committee give SB 451 an unfavorable report.

If questions please contact Allyson Black, ablack@mdchamber.org