



Maryland Chamber of Commerce

Legislative Position

SB 694

OPPOSE

**Finance
Committee**

02/25/10

SB 694

Labor and Employment - Wage Payment and Collection Law - Definition of Wage

Brief Summary of Bill:

SB 694 adds language to the existing Maryland Wage Payment & Collection Law ("MWPCL"), L&E §3-501, to include "overtime wages" within the definition of wages that may be collected using the law.

Maryland Chamber's Position:

The intended effect appears to be to allow employees to obtain the remedies available under the MWPCL for unpaid overtime wages: "a court finds that an employer withheld the wage of an employee in violation of this subtitle and not as a result of a bona fide dispute, the court may award the employee an amount not exceeding 3 times the wage, and reasonable counsel fees and other costs." L&E §§3-507(b)(1) and 3-507.1(b).

Under existing court precedent, violations of the wage/hour law are not considered collectable wages under the MWPCL, because they appear in the separate wage/hour law subtitle and that subtitle contains its own provision specifying the penalty for non-payment (*i.e.*, L&E §3-427). HB 214 does not indicate how the two conflicting penalty sections would be reconciled.

This bill increases the penalty for violation far beyond what is available in our neighboring jurisdictions:

- Delaware: Has no overtime law; federal law applies.
Lost wages, costs and attorneys' fees for minimum wage violation.
- District of Columbia: Unpaid wages, plus liquidated damages, plus reasonable attorneys' fees and costs. Liquidated damages can be denied or reduced if employer had reasonable ground for believing its actions were not a violation.
- Pennsylvania: Lost wages, attorneys' fees and costs.
- Virginia: Has no overtime law; federal law applies.
Lost wages plus 8% interest, attorneys' fees and costs for minimum wage violation.
- West Virginia: Lost wages, attorneys' fees and costs.

In these economic times, where the competition for new jobs is even more acute than ever, Maryland does not need new penalties that make it a less attractive place to do business.

In addition, the bill is poorly drafted, in that it creates the conflict of penalties described above. The MWPCL should be reserved, as it has been by the courts, to address violations of an employer's agreement with the employee to pay certain wages. Statutory mandates, and any penalties for violation of those mandates, should continue to be set forth in separate subtitles

For these reasons, the Maryland Chamber respectfully requests that the Committee give SB 694 an unfavorable report.

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