

CHAPTER 366

(House Bill 53)

AN ACT concerning

Human Relations – Substantive Modifications

FOR the purpose of repealing obsolete provisions of law relating to hearing examiners appointed by the Commission on Human Relations; prohibiting discrimination by certain licensed or regulated persons on the basis of age; ~~prohibiting discrimination in the leasing of commercial property on the basis of sexual orientation;~~ prohibiting discrimination in the leasing of commercial property against a person, rather than an individual; prohibiting certain notices or advertisements relating to employment from indicating any preference, limitation, specification, or discrimination based on marital status; altering the definition of “disability” for purposes of provisions prohibiting discrimination in housing; authorizing a certain complainant to file a request for reconsideration of a certain finding; providing that an administrative law judge, rather than the Commission, may allow a certain complaint or answer to be reasonably amended; establishing that a certain decision and order issued by an administrative law judge shall become the final order of the Commission under certain circumstances; repealing a requirement that certain judicial review standards govern the court in a certain action to enforce compliance with a certain order of the Commission; expanding the relief available to an intervening party in a certain action; ~~repealing a provision making it a misdemeanor to file and pursue a complaint of discrimination under certain circumstances;~~ repealing a provision making it a misdemeanor to receive remuneration for participation in a racial demonstration in the State; correcting cross-references and clarifying language in provisions of law relating to employment practices by persons granted certain privileges by the Maryland Aviation Administration; and generally making substantive modifications, clarifications, and corrections in provisions of law relating to human relations.

BY repealing

Article – State Government

Section 20–207, ~~20–1104~~, and 20–1105

Annotated Code of Maryland

(As enacted by Chapter 120 (H.B. 51)(9lr0791) of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,

Article – State Government

Section 20–402, ~~20–501~~, 20–606(e), 20–701(b)(1), 20–1005(d), 20–1008(e), 20–1011, and 20–1014(c)

Annotated Code of Maryland
(As enacted by Chapter 120 (H.B. 51)(9lr0791) of the Acts of the General
Assembly of 2009)

BY adding to

Article – State Government
Section 20–1009(e)
Annotated Code of Maryland
(As enacted by Chapter 120 (H.B. 51)(9lr0791) of the Acts of the General
Assembly of 2009)

BY repealing and reenacting, with amendments,

Article – Transportation
Section 5–408
Annotated Code of Maryland
(2008 Replacement Volume)

BY renumbering

Article – State Government
Section 20–208
to be Section 20–207
Annotated Code of Maryland
(As enacted by Chapter 120 (H.B. 51)(9lr0791) of the Acts of the General
Assembly of 2009)

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

Article – State Government

[20–207.

(a) The Commission shall appoint the number of hearing examiners provided
in the State budget.

(b) A hearing examiner shall be an attorney who is qualified by experience to
handle discrimination cases of the type arising under this title.

(c) A hearing examiner is entitled to the compensation provided in the State
budget.

(d) In a discrimination case assigned to a hearing examiner, the hearing
examiner shall:

(1) conduct a hearing;

- (2) make findings of fact;
- (3) draw conclusions of law; and
- (4) prepare a provisional order.

(e) A provisional order prepared by a hearing examiner shall become the final order of the Commission unless an appeal from the provisional order is taken to the Commission.]

20-402.

A person that is licensed or regulated by a unit in the Department of Labor, Licensing, and Regulation listed in § 2-108 of the Business Regulation Article may not refuse, withhold from, or deny any person any of the accommodations, advantages, facilities, privileges, sales, or services of the licensed or regulated person or discriminate against any person because of the person's race, sex, creed, color, national origin, marital status, sexual orientation, **AGE**, or disability.

~~20-501.~~

~~An owner or operator of commercial property, an agent or employee of the owner or operator of commercial property, or a person that is licensed or regulated by the State may not discriminate against [an individual] A PERSON in the terms, conditions, or privileges of the leasing of property for commercial use, or in the provision of services or facilities in connection with the leasing of property for commercial use, because of the [individual's] PERSON'S race, color, religion, sex, age, disability, marital status, **SEXUAL ORIENTATION**, or national origin.~~

20-606.

(e) (1) Except as provided in paragraph (2) of this subsection, an employer, labor organization, or employment agency may not print or cause to be printed or published any notice or advertisement relating to employment by the employer, membership in or any classification or referral for employment by the labor organization, or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, age, national origin, **MARITAL STATUS**, sexual orientation, or disability.

(2) A notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, national origin, **MARITAL STATUS**, or disability if religion, sex, age, national origin, **MARITAL STATUS**, or disability is a bona fide occupational qualification for employment.

20-701.

(b) (1) "Disability" means:

(i) a [disability] **PHYSICAL OR MENTAL IMPAIRMENT** that substantially limits one or more of an individual's major life activities;

(ii) a record of having a [disability] **PHYSICAL OR MENTAL IMPAIRMENT** that substantially limits one or more of an individual's major life activities; or

(iii) being regarded as having a [disability] **PHYSICAL OR MENTAL IMPAIRMENT** that substantially limits one or more of an individual's major life activities.

20-1005.

(d) (1) **IF THERE IS A FINDING OF NO PROBABLE CAUSE TO BELIEVE THAT A DISCRIMINATORY ACT HAS BEEN OR IS BEING COMMITTED, THE COMPLAINANT MAY FILE A REQUEST FOR RECONSIDERATION OF THE FINDING IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS.**

(2) Unless the U.S. Equal Employment Opportunity Commission has jurisdiction over the subject matter of the complaint, a denial of a request for reconsideration of a finding of no probable cause by the Commission is a final order appealable to the circuit court as provided in § 10-222 of this article.

20-1008.

(e) The [Commission] **ADMINISTRATIVE LAW JUDGE** may allow any complaint or answer to be reasonably amended.

20-1009.

(E) **UNLESS A TIMELY APPEAL IS FILED WITH THE COMMISSION IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS, A DECISION AND ORDER ISSUED BY THE ADMINISTRATIVE LAW JUDGE UNDER THIS SECTION SHALL BECOME THE FINAL ORDER OF THE COMMISSION.**

20-1011.

[(a)] If a respondent refuses to comply with an order of the Commission issued under this title, the Commission may bring a civil action to enforce compliance with the order in the appropriate equity court of the county where the alleged discriminatory act occurred.

[(b) The judicial review standards set forth in Title 10, Subtitle 2 of this article shall govern the court in hearing a case brought under this section.]

20-1014.

(c) The court may grant any appropriate relief to an intervening party that may be granted to a plaintiff in a civil action under [§ 20-1012] § **20-1013** of this subtitle.

~~[20-1104.~~

~~(a) This section does not affect the right of a respondent to bring a civil action against a person that has filed a complaint under Subtitle 10, Part I of this title.~~

~~(b) A person is guilty of a misdemeanor if:~~

~~(1) the person has claimed to be aggrieved under Subtitle 10, Part I of this title;~~

~~(2) the person has pursued the complaint under §§ 20-1006 and 20-1008 through 20-1011 of this title;~~

~~(3) the Commission has:~~

~~(i) found the complaint to be unfounded; or~~

~~(ii) dismissed the complaint without further action against the respondent; and~~

~~(4) the court has found the complaint to have been made maliciously.~~

~~(e) A person convicted under this section is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.]~~

[20-1105.

(a) A person may not receive any remuneration for participation in a racial demonstration in the State.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.]

Article - Transportation

5-408.

(a) In its operation of an airport, airport facility, or air navigation facility owned or controlled by this State, the Administration, with the approval of the Secretary and subject to the direction of the Commission, may contract, lease, or otherwise arrange with any person to:

(1) Provide the person with services furnished by the Administration or its agents at the airport or facility; or

(2) Grant to the person the privilege of:

(i) Using or improving for commercial purposes any part of the airport or facility; or

(ii) Supplying services, facilities, goods, commodities, or other things at the airport or facility.

(b) (1) For the privileges granted, the Administration may establish any terms and conditions and fix any charges, rentals, or fees that:

(i) Are reasonable and uniform for the same class of privilege or service;

(ii) Are established with due regard to the property and improvements used and the expenses of operation to this State; and

(iii) Do not deprive the public of its rightful, equal, and uniform use of any part of the airport or facility.

(2) The Administration shall monitor the charges, fees, or prices of any goods or services offered to the public by persons granted the privilege under this section. Every contract, lease, or other arrangement shall provide that charges, fees, or prices:

(i) May not be increased without the prior approval of the Administration; and

(ii) Are to be reasonable. In determining reasonableness the Administration shall consider the charges, fees, or prices for the same goods or services at comparable airports.

(3) The Administration shall [monitor]:

(I) **MONITOR** the employment practices [of persons granted privileges under Article 49B, § 14 of the Code, relating to discrimination in employment,] **UNDER TITLE 20, SUBTITLE 6 OF THE STATE GOVERNMENT**

ARTICLE OF PERSONS GRANTED PRIVILEGES UNDER THIS SECTION; and [shall refer]

(II) **REFER** for investigation all alleged violations of [Article 49B, § 14] § **20-606 OF THE STATE GOVERNMENT ARTICLE** to the State Commission [of] **ON** Human Relations, the Equal Employment Opportunity Commission, or any appropriate State or federal administrative body.

(c) (1) In this subsection “commercial activity” means the sale, merchandising, marketing, or promotion of any goods or services.

(2) Commercial activity is permitted at an airport operated by the Administration only when expressly authorized by and in a manner prescribed by the Administration.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 20-208 of Article – State Government of the Annotated Code of Maryland (as enacted by Chapter 120 (H.B. 51)(9lr0791) of the Acts of the General Assembly of 2009) be renumbered to be Section(s) 20-207.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.