

THE AGREEMENT OF AN EMPLOYEE TO WORK FOR LESS THAN THE WAGE TO WHICH THE EMPLOYEE IS ENTITLED UNDER THIS SUBTITLE IS NOT A DEFENSE TO AN ACTION UNDER THIS SECTION.

(E) COSTS.

IF A COURT DETERMINES THAT AN EMPLOYEE IS ENTITLED TO JUDGMENT IN AN ACTION UNDER THIS SECTION, THE COURT SHALL ALLOW AGAINST THE EMPLOYER REASONABLE COUNSEL FEES AND OTHER COSTS OF THE ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through the fifth sentences of former Art. 100, § 55D(a).

Subsection (a)(1) of this section is revised to state that an employee is "entitled to bring an action against the employer" to conform to subsections (b) through (e) of this section, all of which set out provisions on a suit from the perspective of an employee as plaintiff.

In subsection (a)(2) of this section, the former phrase "in any court of competent jurisdiction" is deleted as surplusage.

In subsection (b)(3) of this section, the more precise words "consolidate 2 or more claims" are substituted for the former words "join various claimants ... in one cause of action".

In subsection (e) of this section, the words "counsel fees" are substituted for the former words "attorney's fee", to conform to language used in other revised articles.

The sixth sentence of former Art. 100, § 55D(a), which authorized the Attorney General to prosecute all civil cases referred by the Commissioner under this subtitle, is deleted as unnecessary in light of Md. Constitution, Art. V, § 3 and SG § 6-106.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that the scope of subsection (a)(1) of this section is unclear in light of the limited reference to employees who "do the same type of work". In § 3-304(a) of this subtitle, which sets out the prohibition against discrimination in payment of wages, the reference to work "of the same type" is only one of the factors to be considered in comparing work performed by employees "in the same establishment". See the General Revisor's Note to this subtitle.

The Committee also notes that the reference to "costs of the action" is unclear. Compare subsection (e) of this section and §§ 3-427(d) and 3-605(b) of this title.

Defined terms: "Commissioner" § 3-101  
 "Employer" § 3-301 "Wage" § 3-301