



SPONSOR: Rep. Brady & Sen. Walsh
Reps. Kowalko, Seigfried; Sens. Ennis, McBride

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 303

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO EMPLOYMENT PRACTICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter I, Chapter 7, Title 19 of the Delaware Code by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 § 709C. Unlawful employment practices for call centers; employer practices.

4 (a) As used in this section:

5 (1) "Call center" means a facility or other operation whereby workers receive communications to provide
6 customer assistance or other service.

7 (2) "Communications" means a telephone call, email, or other electronic communication.

8 (3) "Employee" means an individual employed by an employer and includes State employees, unpaid interns,
9 applicants, joint employees, and apprentices.

10 (4) "Employer" means a person employing 4 or more employees within the State at the time of an alleged
11 violation under this section, and includes the State, the General Assembly, State agencies, and labor organizations.

12 (5) "Secretary" means the Secretary of the Department of Labor.

13 (6) "State agency" means an office, department, board, commission, committee, school district, board of
14 education, or a public body existing by virtue of an act of the General Assembly or of the Constitution of the State.
15 "State agency" does not include a political subdivision of the State, an agency of a political subdivision, or another
16 public agency not specifically included in this definition that exists by virtue of State law and whose jurisdiction meets
17 either of the following:

18 a. Is limited to a political subdivision of the State or to a portion thereof.

19 b. Extends beyond the boundaries of the State.

20 (7) "Qualified business" means a business that is located in the State and employs residents of the State.

21 (b)(1) An employer with a call center within this State shall maintain a staffing level capable of handling no less
22 than 70% of customer volume of communications, based on the call center's previous 6-month average volume.

(2) If the staffing level falls below the percentage required under paragraph (b)(1) of this section, the employer shall notify the Secretary immediately.

(c) An employer shall notify the Secretary at least 90 days prior of the employer's relocation or transfer of either of the following from this State to 1 or more foreign countries or another state:

(1) Relocation of a call center.

(2) Transfer of 1 or more facilities or operating units comprising of at least 20% of a call center's total operating volume of communications as measured against the previous 12-month average volume of the operations.

(d)(1) An employer that violates the notification requirement under subsection (c) of this section is subject to a civil penalty not to exceed \$7,500 for each day the employer fails to provide the notification.

(2) The civil penalty under paragraph (d)(1) of this section is collectible by the Secretary.

(3) The Secretary may waive the civil penalty under paragraph (d)(1) of this section.

(e)(1) The Secretary shall compile and maintain a list of all employers that provide notification under paragraphs (b)(2) of this section and subsection (c) of this section.

(2) The Secretary shall do all of the following with the list under paragraph (e)(1) of this section:

a. Update the list on a monthly basis.

b. Make the list available to the public.

c. Prominently display a link to the list on the Department of Labor's website.

(3) An employer must remain on the list under paragraph (e)(1) of this section for a period not to exceed 36 months after each instance of notification under paragraph (b)(2) of this section.

(f) Notwithstanding any other law or regulation of the State to the contrary, an employer that is added to the list under paragraph (e)(1) of this section may not receive a direct or indirect State grant, guaranteed loan, tax benefit, or other financial support for 36 months following the date on which the employer is added to the list.

(g) An employer that is added to the list under paragraph (e)(1) of this section shall remit to the appropriate governmental entity the unamortized value of a direct or indirect State grant, guaranteed loan, tax benefit, or other financial support that the State governmental entity provided to the employer.

(h) The Secretary, in consultation with the appropriate governmental entity providing a direct or indirect State grant, guaranteed loan, tax benefit, or other financial support to an employer, may waive the requirement under subsection (g) of this section if it is demonstrated to the Secretary's satisfaction that enforcing subsection (g) of this section will result in a substantial loss of jobs in the State or harm the environment.

52 (i)(1) Notwithstanding any other law or regulation of the State to the contrary, when a State department or agency
53 makes or awards a contract for call center services, the department or agency shall grant a preference for the contract to a
54 qualified business. The amount of preference given under this subsection (i) is subject to regulations under paragraph (i)(2)
55 of this section.

56 (2) The Secretary shall promulgate regulations to do all of the following:

57 a. Identify qualified businesses.

58 b. Establish limits on the amount of preference that may be given to a qualified business.

59 (j) Nothing in this act may be construed to permit the withholding or denial of payments, compensation, or
60 benefits under State law, including any of the following:

61 (1) Unemployment benefits.

62 (2) Disability benefits.

63 (3) Worker retraining or readjustment benefits to an employee of an employer that relocates a call center or
64 transfers 1 or more facilities or operating units of a call center to a foreign country.

65 (l) This section applies to the relocation of a call center or transfer of 1 or more facilities or operating units of a
66 call center that occurs after [the effective date of this Act].

67 Section 2. This Act takes effect on the first day of the month following 6 months after enactment.

SYNOPSIS

This Act establishes employment practices for call centers, including:

- Requiring that a call center immediately notify the Secretary of the Department of Labor (“Secretary”) if staffing levels fall below 70% of customer volume of communications, based on the call center’s previous 6-month average volume.

- Requiring that a call center notify the Secretary at least 90 days prior to relocating the call center or transferring 1 or more facilities or operating units comprising of at least 20% of a call center’s total operating volume of communications as measured against the previous 12-month average volume of the operation.

- Establishing a civil penalty of up to \$7,500 per day for each day an employer violates notification requirements. The civil penalty is collectible by the Secretary, and the Secretary has the discretion to waive the penalty.

- Requiring the Secretary to compile and maintain a list of employers who provide notification required by this Act.

- Requiring the Secretary to update the list, make the list available to the public, and post the list prominently on the Department of Labor website.

- Prohibiting an employer that is added to the list from receiving a direct or indirect State grant, guaranteed loan, tax benefit, or other financial support for 36 months after being added to the list. Grants for specified training programs or other employment assistance are exempted.

- Requiring an employer that has been added to the list to remit to the appropriate governmental entity the unamortized value of a direct or indirect State grant, guaranteed loan, tax benefit, or other financial support that the State governmental entity provided to the employer. Grants for specified training programs or other employment assistance are exempted.

- Providing that when a State department or agency makes or awards a contract for call center service, the department or agency shall grant preference to qualified businesses. “Qualified business” is defined as a business that is located in and employs residents of this State.

- Requiring the Secretary to promulgate regulations that identify qualifying businesses and establish limits on the amount of preference granted to qualified businesses.

- Specifying that nothing in this Act may be construed as permitting the withholding or denial of payments such as unemployment benefits, disability benefits, or worker retraining or readjustment benefits for certain employees.

This Act applies to the relocation of a call center or transfer of a facility or operating unit of a call center that occurs after the effective date of this Act. And, this Act takes effect on the first day of the month 6 months after the date of enactment.