

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 743

An Act to amend and reenact § 40.1-51.2:2 of the Code of Virginia, relating to health or safety violations; reports of unlawful discharge or discrimination; deadline.

[S 971]

Approved March 26, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-51.2:2 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-51.2:2. Remedy for discrimination.

A. Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of § 40.1-51.2:1 may, within ~~sixty~~ 60 days after such violation occurs, file a complaint with the Commissioner alleging such discharge or discrimination. *The employee shall be prohibited from seeking relief under this section if he fails to file such complaint within the 60-day time period.* Upon receipt of such complaint, the Commissioner shall cause such investigation to be made as he deems appropriate. If, upon such investigation, he determines that the provisions of § 40.1-51.2:1 have been violated, he shall attempt by conciliation to have the violation abated without economic loss to the employee. In the event a voluntary agreement cannot be obtained, the Commissioner shall bring an action in a circuit court having jurisdiction over the person charged with the violation. The court shall have jurisdiction, for cause shown, to restrain violations and order appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay plus interest at a rate not to exceed eight percent per annum.

B. Should the Commissioner, based on the results of his investigation of the complaint, refuse to issue a charge against the person that allegedly discriminated against the employee, the employee may bring action in a circuit court having jurisdiction over the person allegedly discriminating against the employee, for appropriate relief.