
By: Senator Della

Introduced and read first time: January 31, 1996

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 26, 1996

CHAPTER ____

1 AN ACT concerning

2 Workers' Compensation - Collective Bargaining Agreement - Terms - Limitations

3 FOR the purpose of providing that, as part of a collective bargaining agreement, an
4 employer and a recognized or certified exclusive bargaining representative of
5 certain employees may agree to certain terms with respect to workers' compensation
6 under certain circumstances; providing that an agreement is not valid until it has
7 been filed with the Workers' Compensation Commission; providing that once an
8 agreement is ~~filed with~~ approved by the Commission it is binding on the employer
9 and the members of the bargaining unit; imposing certain limitations on an
10 agreement; requiring the Commission and certain parties to provide a certain report
11 to certain committees of the General Assembly; providing for the termination of
12 this Act; and generally relating to collective bargaining agreements with respect to
13 workers' compensation.

14 BY repealing and reenacting, with amendments,
15 Article - Labor and Employment
16 Section 9-104
17 Annotated Code of Maryland
18 (1991 Volume and 1995 Supplement)

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

21 **Article - Labor and Employment**

22 9-104.

23 (a) (1) Except as otherwise provided in this title, a covered employee or an
24 employer of a covered employee may not by agreement, rule, or regulation:

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1 (i) exempt the covered employee or the employer from a duty of the
2 covered employee or the employer under this title; or

3 (ii) waive a right of the covered employee or the employer under this
4 title.

5 (2) An agreement, rule, or regulation that violates paragraph (1) of this
6 subsection is void to the extent of the violation.

7 (b) (1) If federal law provides an exclusive remedy and compensation to an
8 employee of a common carrier by railroad in this State or a dependent of the employee
9 for disability or death caused by an accidental personal injury sustained in interstate or
10 foreign commerce, the carrier and the employee may enter into an agreement that
11 provides:

12 (i) for the payment by the carrier of compensation, in accordance with
13 the federal law, to the employee or a dependent of the employee for disability or death
14 caused by an accidental personal injury sustained in intrastate commerce; and

15 (ii) except as otherwise provided in the agreement, that the carrier
16 may not be civilly liable for the disability or death of the employee caused by the
17 accidental personal injury.

18 (2) To enter into an agreement with any employees of a common carrier by
19 railroad under paragraph (1) of this subsection, the carrier shall:

20 (i) submit, under seal, to the Commission a document that:

21 1. offers to enter into an agreement with each of its employees
22 in the State under paragraph (1) of this subsection; and

23 2. refers to the applicable federal law; and

24 (ii) publish notice of the offer once a week for 3 successive weeks after
25 the document is submitted to the Commission:

26 1. in a newspaper published in each county through which the
27 carrier regularly runs a freight or passenger train; and

28 2. if the carrier regularly runs a freight or passenger train within
29 Baltimore City, in 2 newspapers published in Baltimore City.

30 (3) Thirty days after a common carrier by railroad submits to the
31 Commission a document making an offer under paragraph (2) of this subsection, each
32 employee of the carrier shall be conclusively presumed to have entered into the
33 agreement unless, within the 30 days, an employee submits to the Commission a written
34 notice declining the offer.

35 (4) A common carrier by railroad or an employee of the carrier may end an
36 agreement made under this subsection on the part of the carrier or employee by giving
37 the Commission at least 30 days' written notice of intention to end the agreement.

38 (5) If a common carrier by railroad or an employee of the carrier gives the
39 Commission notice of intention to end the agreement in accordance with paragraph (4) of

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1 this subsection, the agreement shall end on the part of the carrier or employee on the
2 effective date of the notice.

3 (c) A covered employee who has sustained an injury or partial disability may
4 waive by written contract the rights of the covered employee under this title for any
5 subsequent injury that is naturally and proximately caused by the previous injury or
6 disability if the covered employee:

7 (1) voluntarily enters into the contract; and

8 (2) executes the contract in the presence of 2 individuals who sign the
9 contract as witnesses.

10 (D) (1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AS PART OF A
11 COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYER AND A RECOGNIZED OR
12 CERTIFIED EXCLUSIVE BARGAINING REPRESENTATIVE OF EMPLOYEES UNDER THE
13 PURVIEW OF THE BUILDING AND CONSTRUCTION TRADES COUNCIL MAY AGREE
14 TO:

15 (I) AN ALTERNATIVE CLAIM SETTLEMENT SYSTEM THAT
16 ~~SUPPLEMENTS, MODIFIES, OR REPLACES~~ OR MODIFIES THE CLAIM SETTLEMENT
17 PROVISIONS OF § 9-722 OF THIS TITLE AND WHICH MAY INCLUDE MEDIATION AND
18 ~~BINDING~~ ARBITRATION, PROVIDED THAT ALL SETTLEMENTS AND RESOLUTIONS OF
19 CLAIMS ARE SUBJECT TO FINAL APPROVAL BY THE COMMISSION;

20 (II) THE USE OF ~~A LIMITED AN~~ AN AGREED LIST OF HEALTH CARE
21 PROVIDERS OF MEDICAL TREATMENT AND EXPERTISE, WHICH MAY BE THE
22 ~~EXCLUSIVE~~ SOURCE OF ALL MEDICAL AND RELATED EXAMINATIONS, TREATMENT,
23 AND TESTIMONY PROVIDED UNDER THIS TITLE;

24 (III) THE USE OF ~~A LIMITED AN~~ AN AGREED LIST OF ~~PHYSICIANS~~
25 HEALTH CARE PROVIDERS TO CONDUCT INDEPENDENT MEDICAL EXAMINATIONS;

26 (IV) A LIGHT DUTY, MODIFIED JOB, OR RETURN TO WORK
27 PROGRAM;

28 (V) A VOCATIONAL REHABILITATION OR RETRAINING PROGRAM;
29 AND

30 (VI) A 24-HOUR HEALTH CARE COVERAGE PLAN.

31 (2) AN AGREEMENT UNDER THIS SUBSECTION IS NOT VALID UNTIL IT
32 HAS BEEN FILED WITH THE COMMISSION.

33 (3) ONCE AN AGREEMENT UNDER THIS SUBSECTION HAS BEEN ~~FILED~~
34 WITH APPROVED BY THE COMMISSION IT IS BINDING ON THE EMPLOYER AND ~~THE~~
35 ~~MEMBERS OF~~ THE BARGAINING UNIT.

36 (4) THIS SUBSECTION DOES NOT ALLOW AN AGREEMENT THAT:

37 (I) EXEMPTS A COVERED EMPLOYEE OR AN EMPLOYER FROM A
38 DUTY OF THE COVERED EMPLOYEE OR EMPLOYER UNDER THIS TITLE; OR

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1 (II) WAIVES OR LIMITS A RIGHT OR BENEFIT OF A COVERED
2 EMPLOYEE OR EMPLOYER UNDER THIS TITLE.

3 (5) AN AGREEMENT THAT VIOLATES PARAGRAPH (4) OF THIS
4 SUBSECTION IS VOID.

5 (6) NOTHING IN THIS SUBSECTION LIMITS THE RIGHT OF AN INJURED
6 EMPLOYEE TO SEEK TREATMENT FROM A HEALTH CARE PROVIDER OF THE
7 EMPLOYEE'S CHOICE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Workers'
9 Compensation Commission and representatives from the parties involved with collective
10 bargaining agreements with respect to workers' compensation as authorized under this
11 Act shall report to the Senate Finance Committee and the House EconomicMatters
12 Committee by October 1, 1998 on the status of using such collective bargaining
13 agreements with respect to workers' compensation.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1996. It shall remain effective for a period of 4 years and,at the end of
16 September 30, 2000, with no further action required by the General Assembly, this Act
17 shall be abrogated and of no further force and effect.