

SENATE BILL 431

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By: **Senators Young and Brinkley**

Introduced and read first time: February 2, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Emergency Responders – Revisions**

3 FOR the purpose of altering the definition of “on duty” in the workers’ compensation
4 law to include the performance of certain duties assigned to certain individuals
5 appointed as deputy sheriffs or members of a certain fire police unit; specifying
6 that a certain yearly stipend to help offset out-of-pocket expenses that is paid
7 to certain emergency responders may not be used when determining the
8 average weekly wage of the members for workers’ compensation purposes; and
9 generally relating to workers’ compensation for emergency responders.

10 BY repealing and reenacting, with amendments,
11 Article – Labor and Employment
12 Section 9–234 and 9–602(g)
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2011 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Labor and Employment
17 Section 9–602(a)
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2011 Supplement)

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

22 **Article – Labor and Employment**

23 9–234.

24 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) (i) “On duty” means:

2 1. fighting a fire;

3 2. performing a duty of a member of an advanced life
4 support unit or an ambulance, first aid, or rescue squad in a volunteer company;

5 3. except as provided in subparagraph (ii) of this
6 paragraph, performing a duty that the volunteer company assigns to the member;

7 4. performing a duty that a written bylaw or rule of
8 government adopted for the volunteer company assigns to the member;

9 5. going to or from performing a duty included under
10 item 1, 2, 3, or 4 of this subparagraph;

11 6. accompanying an accident or fire victim while being
12 transported to a hospital in a helicopter; [or]

13 7. returning to the home station of the individual after
14 accompanying a victim under item 6 of this subparagraph;

15 **8. PERFORMING A DUTY ASSIGNED TO A MEMBER OF**
16 **A FIRE COMPANY APPOINTED AS A DEPUTY SHERIFF UNDER § 7-302 OR § 7-303**
17 **OF THE PUBLIC SAFETY ARTICLE; OR**

18 **9. PERFORMING A DUTY ASSIGNED TO AN**
19 **INDIVIDUAL APPOINTED TO SERVE AS A MEMBER OF THE FIRE POLICE IN**
20 **WASHINGTON COUNTY UNDER § 7-304 OF THE PUBLIC SAFETY ARTICLE.**

21 (ii) “On duty” does not include attendance of a member of a
22 volunteer company at a social function unless a written bylaw or rule of government
23 adopted for the volunteer company requires the attendance or participation of the
24 member.

25 (3) “Volunteer company” means:

26 (i) a volunteer advanced life support unit;

27 (ii) a volunteer ambulance company or squad;

28 (iii) a volunteer fire company or department; and

29 (iv) a volunteer rescue company, department, or squad.

1 (b) An individual who is a covered employee under subsection (h)(2), (k), (n),
2 (o)(2), (p)(1)(ii), (r)(3), (v), or (x)(1) of this section continues to be a covered employee
3 while:

4 (1) accompanying an accident or fire victim who is being transported
5 to a hospital in a helicopter; and

6 (2) returning to the home station of the individual after accompanying
7 a victim under item (1) of this subsection.

8 (c) (1) Unless an election is made under paragraph (2) of this subsection,
9 a member of a volunteer company in Allegany County is not a covered employee.

10 (2) The Board of County Commissioners for Allegany County may
11 provide by resolution for members of a volunteer company in the county to be covered
12 employees while on duty.

13 (d) A member of a volunteer company in Anne Arundel County is a covered
14 employee while on duty.

15 (e) A member of a volunteer company in Baltimore County is a covered
16 employee while on duty.

17 (f) A member of a volunteer company in Calvert County is a covered
18 employee while on duty.

19 (g) A member of a volunteer company in Caroline County is a covered
20 employee while on duty.

21 (h) (1) Unless an election is made in accordance with this subsection, a
22 member of a volunteer company in Carroll County is not a covered employee.

23 (2) A volunteer fire company in Carroll County may elect to make its
24 members covered employees.

25 (3) A volunteer fire company that elects to make its members covered
26 employees shall pay the premium for the coverage.

27 (i) (1) A member of a volunteer company in Cecil County who meets the
28 guidelines set under paragraph (2) of this subsection is a covered employee while on
29 duty.

30 (2) The Board of County Commissioners of Cecil County may set
31 guidelines to determine the eligibility of members of a volunteer company in the
32 county for coverage under this subsection.

1 (3) The guidelines under paragraph (2) of this subsection may not
2 limit the number of covered employees in a volunteer company.

3 (j) (1) Unless an election is made in accordance with this subsection, a
4 member of a volunteer company in Charles County is not a covered employee.

5 (2) The Board of County Commissioners of Charles County may
6 provide by resolution for members of a volunteer company in the county to be covered
7 employees while on duty.

8 (k) A member of a volunteer company in Dorchester County is a covered
9 employee.

10 (l) A member of a volunteer company in Frederick County is a covered
11 employee while on duty.

12 (m) (1) Unless an election is made under paragraph (2) of this subsection,
13 a member of a volunteer company in Garrett County is not a covered employee.

14 (2) The Board of County Commissioners for Garrett County may
15 provide by resolution for members of a volunteer company in the county to be covered
16 employees while on duty.

17 (n) A member of a volunteer company in Harford County is a covered
18 employee.

19 (o) An individual is a covered employee:

20 (1) while on duty as an actively participating member of a volunteer
21 company in Howard County; or

22 (2) if not covered under item (1) of this subsection, while a member of
23 a volunteer company in Howard County participating in the activities of the volunteer
24 company.

25 (p) (1) An individual is a covered employee:

26 (i) while on duty as an actively participating member of a
27 volunteer company in Kent County; or

28 (ii) if not covered under item (i) of this paragraph, while a
29 member of a volunteer company in Kent County.

30 (2) The Board of County Commissioners of Kent County shall impose
31 annually a tax on assessable property in the county in an amount that is sufficient to
32 pay for coverage under this subsection.

1 (3) The Board of County Commissioners of Kent County may limit the
2 number of members in a volunteer company in the county.

3 (q) A member of a volunteer company in Montgomery County is a covered
4 employee while on duty.

5 (r) An individual is a covered employee:

6 (1) while on duty as a member of the Laurel volunteer rescue squad in
7 Prince George's County; or

8 (2) while a member of a volunteer company in Prince George's County.

9 (s) A member of a volunteer company in Queen Anne's County is a covered
10 employee while on duty.

11 (t) (1) Unless an election is made under paragraph (2) of this subsection,
12 a member of a volunteer company in St. Mary's County is not a covered employee.

13 (2) The Board of County Commissioners for St. Mary's County may
14 provide by resolution for the members of a volunteer company in the county to be
15 covered employees while on duty.

16 (u) (1) Unless an election is made under paragraph (2) of this subsection,
17 a member of a volunteer company in Somerset County is not a covered employee.

18 (2) The Board of County Commissioners for Somerset County may
19 provide by resolution for members of a volunteer company in the county to be covered
20 employees while on duty.

21 (v) (1) A member of a volunteer company in Talbot County is a covered
22 employee.

23 (2) The County Council of Talbot County may provide by resolution for
24 members of a volunteer company in the county to be covered employees while on duty.

25 (w) (1) Unless an election is made under paragraph (2) of this subsection,
26 a member of a volunteer company in Washington County is not a covered employee.

27 (2) The Board of County Commissioners for Washington County may
28 provide by resolution for members of a volunteer company in the county to be covered
29 employees while on duty.

30 (x) (1) A member of a volunteer company in Wicomico County is a covered
31 employee.

1 (2) The County Council of Wicomico County may provide by resolution
2 for members of a volunteer company in the county to be covered employees while on
3 duty.

4 (y) (1) Unless an election is made under paragraph (2) of this subsection,
5 a member of a volunteer company in Worcester County is not a covered employee.

6 (2) The Board of County Commissioners for Worcester County may
7 provide by resolution for members of a volunteer company in the county to be covered
8 employees while on duty.

9 (z) (1) For the purposes of this title, a member of a volunteer company
10 who is a covered employee under this section is an employee of the political
11 subdivision of the State where the volunteer company is organized.

12 (2) A member of a volunteer company shall be covered while on duty
13 by a policy of workers' compensation insurance.

14 9-602.

15 (a) (1) Except as otherwise provided in this section, the average weekly
16 wage of a covered employee shall be computed by determining the average of the
17 weekly wages of the covered employee:

18 (i) when the covered employee is working full time; and

19 (ii) at the time of:

20 1. the accidental personal injury; or

21 2. the last injurious exposure of the covered employee to
22 the hazards of an occupational disease.

23 (2) For purposes of a computation under paragraph (1) of this
24 subsection, wages shall include:

25 (i) tips; and

26 (ii) the reasonable value of housing, lodging, meals, rent, and
27 other similar advantages that the covered employee received from the employer.

28 (3) If a covered employee establishes that, because of the age and
29 experience of the covered employee at the time of the accidental personal injury or last
30 injurious exposure to the hazards of the occupational disease, the wages of the covered
31 employee could be expected to increase under normal circumstances, the expected
32 increase may be taken into account when computing the average weekly wage of the
33 covered employee under paragraph (1) of this subsection.

1 (g) (1) [For] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR**
2 the purpose of computing the average weekly wage of an individual who is a covered
3 employee under § 9-234 of this title, the wages of the covered employee shall be:

4 [(1)](I) for a covered employee who received a salary or wages from
5 other employment at the time of the accidental personal injury or last injurious
6 exposure, the salary or wages from the other employment; or

7 [(2)](II) for a covered employee who did not receive a salary or wages
8 from other employment at the time of the accidental personal injury or last injurious
9 exposure:

10 [(i)] 1. if the covered employee derived income from a source
11 other than salary or wages at the time of the accidental personal injury or last
12 injurious exposure, an amount that allows the maximum compensation under this
13 title;

14 [(ii)] 2. if the covered employee was not engaged in a business
15 enterprise at the time of the accidental personal injury or last injurious exposure, the
16 weekly income last received by the covered employee when engaged in a business
17 enterprise; or

18 [(iii)] 3. if the covered employee had never been engaged in a
19 business enterprise at the time of the accidental personal injury or last injurious
20 exposure, an amount that allows the minimum compensation under this title.

21 (2) **A YEARLY STIPEND OF \$5,200 OR LESS TO HELP OFFSET**
22 **OUT-OF-POCKET EXPENSES THAT A VOLUNTEER ADVANCED LIFE SUPPORT**
23 **UNIT, VOLUNTEER AMBULANCE COMPANY, VOLUNTEER FIRE COMPANY,**
24 **VOLUNTEER FIRE POLICE UNIT, OR VOLUNTEER RESCUE SQUAD PAYS TO A**
25 **MEMBER MAY NOT BE USED WHEN DETERMINING THE AVERAGE WEEKLY WAGE**
26 **OF THE MEMBER.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2012.