

SENATE BILL 874

K1
SB 608/10 – FIN

5lr3028

By: **Senator Klausmeier**
Introduced and read first time: February 27, 2015
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Temporary Total Disability – Incarcerated Employees**

3 FOR the purpose of providing that an employer or insurer is not liable for certain temporary
4 total disability payments to a covered employee while the employee is incarcerated;
5 providing for a certain exception; providing for the application of this Act; and
6 generally relating to workers' compensation benefits for covered employees who are
7 incarcerated.

8 BY repealing and reenacting, without amendments,
9 Article – Labor and Employment
10 Section 9–221, 9–607, and 9–618
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2014 Supplement)

13 BY adding to
14 Article – Labor and Employment
15 Section 9–618.1
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2014 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Labor and Employment
20 Section 9–621
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2014 Supplement)

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

25 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 9-221.

2 (a) A prisoner is a covered employee while the prisoner is:

3 (1) working for a board of county commissioners, a county council, or a
4 county roads board if:

5 (i) the county pays the prisoner a wage or stipulated sum; and

6 (ii) the prisoner sustains permanent partial or permanent total
7 disability or dies, as a result of an accidental personal injury; or

8 (2) engaged in work while under the supervision of Maryland Correctional
9 Enterprises in the Federal Prison Industry Enhancement Program as provided in §
10 10-308(d) of the Correctional Services Article.

11 (b) In Allegany, Anne Arundel, Charles, Montgomery, Washington, and Wicomico
12 counties, payment of a stipend or other money into an account that a correctional
13 institution administers for a prisoner does not constitute payment of a wage or stipulated
14 sum under subsection (a)(1)(i) of this section.

15 9-607.

16 (a) The Commission may not award compensation to a prisoner who is a covered
17 employee under § 9-221 of this title until the prisoner is discharged by pardon, parole, or
18 expiration of sentence.

19 (b) If a prisoner dies from an accidental personal injury, the dependents of the
20 prisoner are entitled to compensation under this title, based on the average weekly wage
21 of the prisoner.

22 9-618.

23 A covered employee who is temporarily totally disabled due to an accidental personal
24 injury or an occupational disease shall be paid compensation in accordance with this Part
25 III of this subtitle.

26 **9-618.1.**

27 **(A) AN EMPLOYER OR INSURER IS NOT LIABLE TO PAY COMPENSATION TO A**
28 **COVERED EMPLOYEE AS REQUIRED UNDER THIS PART OF THIS SUBTITLE WHILE THE**
29 **COVERED EMPLOYEE IS INCARCERATED, UNLESS THE EMPLOYEE PARTICIPATES IN**
30 **A WORK RELEASE PROGRAM.**

31 **(B) AN EMPLOYER OR INSURER SHALL RESUME PAYMENT OF**
32 **COMPENSATION ON THE DATE THAT THE COVERED EMPLOYEE IS DISCHARGED BY**

1 PARDON, PAROLE, OR EXPIRATION OF SENTENCE IF THE EMPLOYEE IS STILL
2 ENTITLED TEMPORARILY TO RECEIVE TOTAL BENEFITS.

3 9-621.

4 (a) (1) Except as provided in paragraph (2) of this subsection, if a covered
5 employee is temporarily totally disabled due to an accidental personal injury or an
6 occupational disease, the employer or its insurer shall pay the covered employee
7 compensation that equals two-thirds of the average weekly wage of the covered employee,
8 but:

9 (i) does not exceed the average weekly wage of the State; and

10 (ii) is not less than \$50.

11 (2) If the average weekly wage of the covered employee is less than \$50 at
12 the time of the accidental personal injury or the last injurious exposure to the hazards of
13 the occupational disease, the employer or its insurer shall pay the covered employee
14 compensation that equals the average weekly wage of the covered employee.

15 (b) **[The] EXCEPT AS PROVIDED IN § 9-618.1 OF THIS SUBTITLE, THE**
16 employer or its insurer shall pay the compensation for the period that the covered employee
17 is temporarily totally disabled.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
19 apply only prospectively and may not be applied or interpreted to have any effect on or
20 application to any claims filed for temporary total disability before the effective date of this
21 Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2015.