

SENATE BILL 812

K1

EMERGENCY BILL

11r1768
CF 11r3020

By: **Senator Klausmeier (Chair, Workers' Compensation Benefit and Insurance Oversight Committee)**

Introduced and read first time: February 9, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Occupational Disease Presumptions – COVID-19**

3 FOR the purpose of providing that certain covered employees who are suffering from the
4 effects of severe acute respiratory syndrome coronavirus 2 are presumed, under
5 certain circumstances, to have an occupational disease that was suffered in the line
6 of duty or course of employment and is compensable in a certain manner; requiring
7 an individual who is eligible for benefits under certain provisions of this Act to
8 provide a copy of a certain test or certain written documentation to the employer or
9 insurer; establishing the date of injury; specifying that a certain employee who is not
10 entitled to certain benefits is not precluded from claiming an occupational disease or
11 a personal injury under State law; providing that a certain presumption may be
12 rebutted only under certain circumstances; requiring the amount of benefits received
13 by certain covered employees under certain provisions of this Act to be adjusted
14 under certain circumstances to avoid the benefit amount exceeding the regular rate
15 of pay for a covered employee; establishing, notwithstanding certain provisions of
16 law, deadlines for certain notice and filing requirements for claims filed under this
17 Act; defining certain terms; providing for the application of this Act; making this Act
18 an emergency measure; and generally relating to occupational disease presumptions
19 under the workers' compensation law.

20 BY repealing and reenacting, with amendments,
21 Article – Labor and Employment
22 Section 9-503
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2020 Supplement)

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

27 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9–503.

2 (a) A paid firefighter, paid fire fighting instructor, paid rescue squad member,
3 paid advanced life support unit member, or sworn member of the Office of the State Fire
4 Marshal employed by an airport authority, a county, a fire control district, a municipality,
5 or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue
6 squad member, or volunteer advanced life support unit member who is a covered employee
7 under § 9–234 of this title is presumed to have an occupational disease that was suffered
8 in the line of duty and is compensable under this title if:

9 (1) the individual has heart disease, hypertension, or lung disease;

10 (2) the heart disease, hypertension, or lung disease results in partial or
11 total disability or death; and

12 (3) in the case of a volunteer firefighter, volunteer fire fighting instructor,
13 volunteer rescue squad member, or volunteer advanced life support unit member, the
14 individual has met a suitable standard of physical examination before becoming a
15 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
16 member.

17 (b) (1) A paid police officer employed by an airport authority, a county, the
18 Maryland–National Capital Park and Planning Commission, a municipality, or the State,
19 a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a
20 deputy sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy
21 sheriff of Baltimore City, Montgomery County correctional officer, Prince George’s County
22 deputy sheriff, Prince George’s County correctional officer, or deputy sheriff of Allegany
23 County is presumed to be suffering from an occupational disease that was suffered in the
24 line of duty and is compensable under this title if:

25 (i) the police officer, deputy sheriff, or correctional officer is
26 suffering from heart disease or hypertension; and

27 (ii) the heart disease or hypertension results in partial or total
28 disability or death.

29 (2) (i) A deputy sheriff of Anne Arundel County, Anne Arundel County
30 detention officer, deputy sheriff of Baltimore City, Montgomery County correctional officer,
31 Prince George’s County deputy sheriff, or Prince George’s County correctional officer is
32 entitled to the presumption under this subsection only to the extent that the individual
33 suffers from heart disease or hypertension that is more severe than the individual’s heart
34 disease or hypertension condition existing prior to the individual’s employment as a deputy
35 sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of
36 Baltimore City, Montgomery County correctional officer, Prince George’s County deputy
37 sheriff, or Prince George’s County correctional officer.

1 (ii) To be eligible for the presumption under this subsection, a deputy
2 sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of
3 Baltimore City, Montgomery County correctional officer, Prince George's County deputy
4 sheriff, or Prince George's County correctional officer, as a condition of employment, shall
5 submit to a medical examination to determine any heart disease or hypertension condition
6 existing prior to the individual's employment as a deputy sheriff of Anne Arundel County,
7 Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery
8 County correctional officer, Prince George's County deputy sheriff, or Prince George's
9 County correctional officer.

10 (c) A paid firefighter, paid fire fighting instructor, paid rescue squad member,
11 paid advanced life support unit member, or a sworn member of the Office of the State Fire
12 Marshal employed by an airport authority, a county, a fire control district, a municipality,
13 or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue
14 squad member, or volunteer advanced life support unit member who is a covered employee
15 under § 9-234 of this title is presumed to be suffering from an occupational disease that
16 was suffered in the line of duty and is compensable under this title if:

17 (1) the individual has leukemia or prostate, rectal, throat, multiple
18 myeloma, non-Hodgkin's lymphoma, brain, testicular, bladder, kidney or renal cell, or
19 breast cancer that is caused by contact with a toxic substance that the individual has
20 encountered in the line of duty;

21 (2) the individual has completed at least 10 years of cumulative service
22 within the State as a firefighter, a fire fighting instructor, a rescue squad member, or an
23 advanced life support unit member or in a combination of those jobs;

24 (3) the cancer or leukemia results in partial or total disability or death; and

25 (4) in the case of a volunteer firefighter, volunteer fire fighting instructor,
26 volunteer rescue squad member, or volunteer advanced life support unit member, the
27 individual has met a suitable standard of physical examination before becoming a
28 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
29 member.

30 (d) (1) A paid law enforcement employee of the Department of Natural
31 Resources who is a covered employee under § 9-207 of this title and a park police officer of
32 the Maryland-National Capital Park and Planning Commission is presumed to have an
33 occupational disease that was suffered in the line of duty and is compensable under this
34 title if the employee:

35 (i) is suffering from Lyme disease; and

36 (ii) was not suffering from Lyme disease before assignment to a
37 position that regularly places the employee in an outdoor wooded environment.

38 (2) The presumption under this subsection for a park police officer of the

1 Maryland–National Capital Park and Planning Commission shall only apply:

2 (i) during the time that the park police officer is assigned to a
3 position that regularly places the park police officer in an outdoor wooded environment;
4 and

5 (ii) for 3 years after the last date that the park police officer was
6 assigned by the Maryland–National Capital Park and Planning Commission to a position
7 that regularly placed the officer in an outdoor wooded environment.

8 **(E) A PAID FIREFIGHTER, PAID RESCUE SQUAD MEMBER, PAID ADVANCED**
9 **LIFE SUPPORT UNIT MEMBER, PAID PARAMEDIC, VOLUNTEER FIREFIGHTER,**
10 **VOLUNTEER RESCUE SQUAD MEMBER, VOLUNTEER ADVANCED LIFE SUPPORT UNIT**
11 **MEMBER, VOLUNTEER PARAMEDIC, PAID POLICE OFFICER EMPLOYED BY AN**
12 **AIRPORT AUTHORITY, A TRANSIT AUTHORITY, A COUNTY, A MUNICIPALITY, OR THE**
13 **STATE, SHERIFF, DEPUTY SHERIFF, OR CORRECTIONAL OFFICER IS PRESUMED TO**
14 **BE SUFFERING FROM AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE LINE**
15 **OF DUTY AND IS COMPENSABLE UNDER THIS TITLE IF:**

16 **(1) THE INDIVIDUAL IS SUFFERING FROM THE EFFECTS OF SEVERE**
17 **ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2; AND**

18 **(2) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID–19 OR**
19 **TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 OR**
20 **SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES.**

21 **(F) (1) IN THIS SUBSECTION, “HEALTH CARE WORKER” MEANS AN**
22 **INDIVIDUAL WHOSE PRIMARY PLACE OF EMPLOYMENT IS A FACILITY LICENSED**
23 **UNDER TITLE 19 OF THE HEALTH – GENERAL ARTICLE OR AN INDIVIDUAL**
24 **EMPLOYED IN A HEALTH CARE, HOME CARE, OR LONG–TERM CARE SETTING WHERE**
25 **PATIENTS ARE DIAGNOSED WITH OR TREATED FOR COVID–19.**

26 **(2) A HEALTH CARE WORKER IS PRESUMED TO BE SUFFERING FROM**
27 **AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE COURSE OF EMPLOYMENT**
28 **AND IS COMPENSABLE UNDER THIS TITLE IF:**

29 **(I) THE INDIVIDUAL IS SUFFERING FROM THE EFFECTS OF**
30 **SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2; AND**

31 **(II) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID–19**
32 **OR TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2**
33 **OR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES.**

34 **(G) (1) AN INDIVIDUAL WHO IS ELIGIBLE FOR BENEFITS UNDER**

1 SUBSECTION (E) OR (F) OF THIS SECTION SHALL PROVIDE A COPY OF THE POSITIVE
2 TEST OR THE WRITTEN DOCUMENTATION CONFIRMING THE DIAGNOSIS TO THE
3 EMPLOYER OR INSURER.

4 (2) THE DATE OF INJURY FOR AN INDIVIDUAL WHO IS ELIGIBLE FOR
5 BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS SECTION SHALL BE THE FIRST
6 DATE ON WHICH THE EMPLOYEE WAS UNABLE TO WORK DUE TO A DIAGNOSIS OF
7 COVID-19 OR DUE TO SYMPTOMS THAT WERE LATER DIAGNOSED AS COVID-19,
8 WHICHEVER OCCURRED FIRST.

9 (3) AN EMPLOYEE WHO HAS BEEN DIAGNOSED WITH COVID-19 BUT
10 WHO IS NOT ELIGIBLE FOR BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS
11 SECTION IS NOT PRECLUDED FROM CLAIMING AN OCCUPATIONAL DISEASE OR FROM
12 CLAIMING A PERSONAL INJURY UNDER STATE LAW.

13 (4) THE PRESUMPTION ESTABLISHED UNDER SUBSECTIONS (E) AND
14 (F) OF THIS SECTION MAY BE REBUTTED ONLY IF THE EMPLOYER OR INSURER
15 SHOWS THAT THE EMPLOYMENT WAS NOT A DIRECT CAUSE OF THE DISEASE.

16 [(e)] (H) (1) Except as provided in paragraph (2) of this subsection, any paid
17 firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire
18 Marshal, paid police officer, paid law enforcement employee of the Department of Natural
19 Resources, deputy sheriff of Anne Arundel County, Anne Arundel County detention officer,
20 park police officer of the Maryland-National Capital Park and Planning Commission,
21 deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery
22 County correctional officer, deputy sheriff of Prince George's County, or Prince George's
23 County correctional officer who is eligible for benefits under subsection (a), (b), (c), [or] (d),
24 OR (E) of this section or the dependents of those individuals shall receive the benefits in
25 addition to any benefits that the individual or the dependents of the individual are entitled
26 to receive under the retirement system in which the individual was a participant at the
27 time of the claim.

28 (2) The benefits received under this title shall be adjusted so that the
29 weekly total of those benefits and retirement benefits does not exceed the weekly salary
30 that was paid to the paid law enforcement employee of the Department of Natural
31 Resources, a park police officer of the Maryland-National Capital Park and Planning
32 Commission, firefighter, fire fighting instructor, sworn member of the Office of the State
33 Fire Marshal, police officer, deputy sheriff, Prince George's County or Montgomery County
34 correctional officer, or Anne Arundel County detention officer.

35 SECTION 2. AND BE IT FURTHER ENACTED, That:

36 (a) This Act shall be construed to apply retroactively and shall be applied to and
37 interpreted to affect any claim filed on or after January 1, 2020.

1 (b) Notwithstanding § 9–705 of the Labor and Employment Article, the notice
2 requirement for occupational disease claims under this Act is 1 year from the later of:

3 (1) the date on which the covered employee tested positive for severe acute
4 respiratory syndrome coronavirus 2 or severe acute respiratory syndrome coronavirus 2
5 antibodies; or

6 (2) the date on which the covered employee receives a diagnosis of
7 COVID–19.

8 (c) Notwithstanding § 9–711 of the Labor and Employment Article, the period for
9 a covered employee to file a claim with the Workers’ Compensation Commission is 2 years
10 from the later of:

11 (1) the date on which the covered employee tested positive for severe acute
12 respiratory syndrome coronavirus 2 or severe acute respiratory syndrome coronavirus 2
13 antibodies; or

14 (2) the date on which the covered employee receives a diagnosis of
15 COVID–19.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
17 measure, is necessary for the immediate preservation of the public health or safety, has
18 been passed by a yeas and nays vote supported by three–fifths of all the members elected to
19 each of the two Houses of the General Assembly, and shall take effect from the date it is
20 enacted.