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**By: Delegate Cummings**

Introduced and read first time: February 7, 1996

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 2, 1996

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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 certain insurers to provide certain notice under certain  
11 circumstances; requiring the Commission and certain parties to provide a certain  
12 report to certain committees of the General Assembly; providing for the  
13 termination of this Act; and generally relating to collective bargaining agreements  
14 with respect to workers' compensation.

15 BY repealing and reenacting, with amendments,  
16 Article - Labor and Employment  
17 Section 9-104  
18 Annotated Code of Maryland  
19 (1991 Volume and 1995 Supplement)

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

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1 **Article - Labor and Employment**

2 9-104.

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

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

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

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

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

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

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

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

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

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

27 2. refers to the applicable federal law; and

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

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

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

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

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

4 (5) If a common carrier by railroad or an employee of the carrier gives the  
5 Commission notice of intention to end the agreement in accordance with paragraph (4) of  
6 this subsection, the agreement shall end on the part of the carrier or employee on the  
7 effective date of the notice.

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

12 (1) voluntarily enters into the contract; and

13 (2) executes the contract in the presence of 2 individuals who sign the  
14 contract as witnesses.

15 (D) (1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AS PART OF A  
16 COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYER AND A RECOGNIZED OR  
17 CERTIFIED EXCLUSIVE BARGAINING REPRESENTATIVE OF EMPLOYEES UNDER THE  
18 PURVIEW OF THE BUILDING AND CONSTRUCTION TRADES COUNCIL FOR THE  
19 PROPOSED REDSKINS STADIUM ON THE WILSON FARM PROPERTY IN PRINCE  
20 GEORGE'S COUNTY AND FOR THE PROFESSIONAL FOOTBALL STADIUM AT CAMDEN  
21 YARDS MAY AGREE TO:

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

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

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

33 (IV) A LIGHT DUTY, MODIFIED JOB, OR RETURN TO WORK  
34 PROGRAM;

35 (V) A VOCATIONAL REHABILITATION OR RETRAINING PROGRAM;  
36 AND

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

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

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

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

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

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

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

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

14 (II) AN INSURER THAT OFFERS BENEFITS IN ACCORDANCE WITH  
15 AN AGREEMENT UNDER THIS SECTION SHALL PROVIDE WRITTEN NOTICE OF  
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Workers'  
18 Compensation Commission and representatives from the parties involved with collective  
19 bargaining agreements with respect to workers' compensation as authorized under this  
20 Act shall report to the Senate Finance Committee and the House EconomicMatters  
21 Committee by January 1, 1999 on the status of using such collective bargaining  
22 agreements with respect to workers' compensation.

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