

**By: Senator Della**

Introduced and read first time: January 31, 1996

Assigned to: Finance

A BILL ENTITLED

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 employees may agree to certain terms with respect to workers' compensation;  
6 providing that an agreement is not valid until it has been filed with the Workers'  
7 Compensation Commission; providing that once an agreement is filed with the  
8 Commission it is binding on the employer and the members of the bargaining unit;  
9 imposing certain limitations on an agreement; and generally relating to collective  
10 bargaining agreements with respect to workers' compensation.

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

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

**18 Article - Labor and Employment**

19 9-104.

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

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

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

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

28 (b) (1) If federal law provides an exclusive remedy and compensation to an  
29 employee of a common carrier by railroad in this State or a dependent of the employee  
30 for disability or death caused by an accidental personal injury sustained in interstate or

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1 foreign commerce, the carrier and the employee may enter into an agreement that  
2 provides:

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

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

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

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

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

14 2. refers to the applicable federal law; and

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

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

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

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

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

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

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

37 (1) voluntarily enters into the contract; and

38 (2) executes the contract in the presence of 2 individuals who sign the  
39 contract as witnesses.

1 (D) (1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AS PART OF A  
2 COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYER AND A RECOGNIZED OR  
3 CERTIFIED EXCLUSIVE BARGAINING REPRESENTATIVE OF EMPLOYEES MAY AGREE  
4 TO:

5 (I) AN ALTERNATIVE CLAIM SETTLEMENT SYSTEM THAT  
6 SUPPLEMENTS, MODIFIES, OR REPLACES THE CLAIM SETTLEMENT PROVISIONS OF §  
7 9-722 OF THIS TITLE AND WHICH MAY INCLUDE MEDIATION AND BINDING  
8 ARBITRATION;

9 (II) THE USE OF A LIMITED AGREED LIST OF PROVIDERS OF  
10 MEDICAL TREATMENT AND EXPERTISE, WHICH MAY BE THE EXCLUSIVE SOURCE OF  
11 ALL MEDICAL AND RELATED EXAMINATIONS, TREATMENT, AND TESTIMONY  
12 PROVIDED UNDER THIS TITLE;

13 (III) THE USE OF A LIMITED AGREED LIST OF PHYSICIANS TO  
14 CONDUCT INDEPENDENT MEDICAL EXAMINATIONS;

15 (IV) A LIGHT DUTY, MODIFIED JOB, OR RETURN TO WORK  
16 PROGRAM;

17 (V) A VOCATIONAL REHABILITATION OR RETRAINING PROGRAM;  
18 AND

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

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

22 (3) ONCE AN AGREEMENT UNDER THIS SUBSECTION HAS BEEN FILED  
23 WITH THE COMMISSION IT IS BINDING ON THE EMPLOYER AND THE MEMBERS OF  
24 THE BARGAINING UNIT.

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

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

28 (II) WAIVES A RIGHT OF A COVERED EMPLOYEE OR EMPLOYER  
29 UNDER THIS TITLE.

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 1996.