
By: Senators Stone, Della, and Young

Introduced and read first time: January 27, 1997

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Average Weekly Wage - Multiple Employers - Serious**
3 **Permanent Partial Disability and Permanent Total Disability**

4 FOR the purpose of providing that if, at the time of an accidental personal injury or last
5 injurious exposure, a covered employee was employed by another employer in
6 addition to the employer in whose employment the accidental personal injury or last
7 injurious exposure occurred, the average weekly wage of the covered employee shall
8 be based on the wages earned in the other employment under certain
9 circumstances; providing that this Act applies only to covered employees who have
10 suffered certain types of disability; providing for the construction of this Act; and
11 generally relating to the computation of the average weekly wage of a covered
12 employee.

13 BY repealing and reenacting, without amendments,
14 Article - Labor and Employment
15 Section 9-602(a)
16 Annotated Code of Maryland
17 (1991 Volume and 1996 Supplement)

18 BY adding to
19 Article - Labor and Employment
20 Section 9-602(l)
21 Annotated Code of Maryland
22 (1991 Volume and 1996 Supplement)

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

25 **Article - Labor and Employment**

26 9-602.

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

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

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1 (ii) at the time of:

2 1. the accidental personal injury; or

3 2. the last injurious exposure of the covered employee to the
4 hazards of an occupational disease.

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

7 (i) tips; and

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

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

16 (L) (1) THIS SUBSECTION APPLIES ONLY TO A COVERED EMPLOYEE WHO
17 HAS SUFFERED:

18 (I) A SERIOUS PERMANENT PARTIAL DISABILITY UNDER § 9-630 OF
19 THIS TITLE; OR

20 (II) A PERMANENT TOTAL DISABILITY UNDER § 9-637 OF THIS
21 TITLE.

22 (2) IF, AT THE TIME OF AN ACCIDENTAL PERSONAL INJURY OR LAST
23 INJURIOUS EXPOSURE, A COVERED EMPLOYEE WAS EMPLOYED BY ANOTHER
24 EMPLOYER IN ADDITION TO THE EMPLOYER IN WHOSE EMPLOYMENT THE
25 ACCIDENTAL PERSONAL INJURY OR LAST INJURIOUS EXPOSURE OCCURRED, THE
26 AVERAGE WEEKLY WAGE OF THE COVERED EMPLOYEE SHALL BE BASED ON THE
27 WAGES EARNED IN THE OTHER EMPLOYMENT IF:

28 (I) THE COVERED EMPLOYEE WORKED, ON AVERAGE, 20 HOURS
29 PER WEEK OR LESS IN THE EMPLOYMENT IN WHICH THE ACCIDENTAL PERSONAL
30 INJURY OR LAST INJURIOUS EXPOSURE OCCURRED;

31 (II) THE COVERED EMPLOYEE EARNED WAGES FROM THE OTHER
32 EMPLOYMENT THAT EXCEEDED THE WAGES EARNED FROM THE EMPLOYMENT IN
33 WHICH THE ACCIDENTAL PERSONAL INJURY OR LAST INJURIOUS EXPOSURE
34 OCCURRED; AND

35 (III) AS A RESULT OF THE ACCIDENTAL PERSONAL INJURY OR
36 OCCUPATIONAL DISEASE, THE COVERED EMPLOYEE IS UNABLE TO WORK AT ANY
37 EMPLOYMENT THE COVERED EMPLOYEE HELD AT THE TIME OF THE ACCIDENTAL
38 PERSONAL INJURY OR LAST INJURIOUS EXPOSURE OR ANY SIMILAR EMPLOYMENT.

39 (3) THIS SUBSECTION MAY NOT BE INTERPRETED AS:

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1 (I) RELIEVING FROM LIABILITY TO PAY COMPENSATION THE
2 EMPLOYER IN WHOSE EMPLOYMENT THE ACCIDENTAL PERSONAL INJURY OR LAST
3 INJURIOUS EXPOSURE OCCURRED;

4 (II) CREATING ANY LIABILITY TO PAY COMPENSATION ON THE
5 PART OF THE OTHER EMPLOYER IN WHOSE EMPLOYMENT THE ACCIDENTAL
6 PERSONAL INJURY OR LAST INJURIOUS EXPOSURE DID NOT OCCUR; OR

7 (III) REQUIRING THE WAGES FROM THE TWO EMPLOYMENTS TO BE
8 COMBINED FOR PURPOSES OF COMPUTING THE AVERAGE WEEKLY WAGE OF THE
9 COVERED EMPLOYEE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 1997.