

HOUSE BILL 311

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HB 1287/98 - ECM

1999 Regular Session
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By: **Delegates McClenahan, W. Baker, Walkup, Conway, Rudolph, Eckardt,
Cane, Bozman, Schisler, Guns, Edwards, Shank, K. Kelly, McKee,
Hutchins, and Wood**

Introduced and read first time: February 4, 1999
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 5, 1999

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation - Department of Natural Resources**

3 FOR the purpose of providing that certain employees ~~engaged for fire fighting by~~ of
4 the Department of Natural Resources are covered employees for the purpose of
5 workers' compensation benefits; providing that certain paid law enforcement
6 employees suffering from Lyme disease are presumed, under certain
7 circumstances, to have an occupational disease that was suffered in the line of
8 duty and is compensable in a certain manner; providing for a certain exemption
9 for certain individuals who object to a certain immunization for religious
10 reasons; and generally relating to workers' compensation benefits.

11 BY repealing and reenacting, with amendments,
12 Article - Labor and Employment
13 Section 9-207 and 9-503
14 Annotated Code of Maryland
15 (1991 Volume and 1998 Supplement)

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

1

Article - Labor and Employment

2 9-207.

3 (a) A registered crew member, A PAID LAW ENFORCEMENT EMPLOYEE, or an
4 individual engaged for fire fighting by the Department of Natural Resources is a
5 covered employee.

6 (b) Notwithstanding § 9-203 of this subtitle, an individual engaged for fire
7 fighting who otherwise would be a covered employee under subsection (a) of this
8 section is a covered employee even if the fire fighting takes place outside of the State.

9 (c) Notwithstanding § 9-205 of this subtitle, an individual who otherwise
10 would be a covered employee under subsection (a) of this section is a covered employee
11 even if engaged temporarily or part time.

12 (d) For the purpose of this title, the Department of Natural Resources is the
13 employer of an individual who is a covered employee under this section.

14 9-503.

15 (a) A paid fire fighter, paid fire fighting instructor, or sworn member of the
16 Office of the State Fire Marshal employed by an airport authority, a county, a fire
17 control district, a municipality, or the State or a volunteer fire fighter, volunteer fire
18 fighting instructor, volunteer rescue squad member, or volunteer advanced life
19 support unit member who is a covered employee under § 9-234 of this title is
20 presumed to have an occupational disease that was suffered in the line of duty and is
21 compensable under this title if:

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

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

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

30 (b) (1) A paid police officer employed by an airport authority, a county, the
31 Maryland-National Capital Park and Planning Commission, a municipality, or the
32 State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this
33 subsection, a Prince George's County deputy sheriff is presumed to be suffering from
34 an occupational disease that was suffered in the line of duty and is compensable
35 under this title if:

36 (i) the police officer or deputy sheriff is suffering from heart
37 disease or hypertension; and

1 (ii) the heart disease or hypertension results in partial or total
2 disability or death.

3 (2) (i) A Prince George's County deputy sheriff is entitled to the
4 presumption under this subsection only to the extent that the individual suffers from
5 heart disease or hypertension that is more severe than the individual's heart disease
6 or hypertension condition existing prior to the individual's employment as a Prince
7 George's County deputy sheriff.

8 (ii) To be eligible for the presumption under this subsection, a
9 Prince George's County deputy sheriff, as a condition of employment, shall submit to
10 a medical examination to determine any heart disease or hypertension condition
11 existing prior to the individual's employment as a Prince George's County deputy
12 sheriff.

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

20 (1) has leukemia or pancreatic, prostate, rectal, or throat cancer that is
21 caused by contact with a toxic substance that the individual has encountered in the
22 line of duty;

23 (2) has completed at least 5 years of service as a fire fighter, fire fighting
24 instructor, rescue squad member, or advanced life support unit member or in a
25 combination of those jobs in the department where the individual currently is
26 employed or serves;

27 (3) is unable to perform the normal duties of a fire fighter, fire fighting
28 instructor, rescue squad member, or advanced life support unit member in the
29 department where the individual currently is employed or serves because of the
30 cancer or leukemia disability; and

31 (4) in the case of a volunteer fire fighter, volunteer fire fighting
32 instructor, volunteer rescue squad member, or volunteer advanced life support unit
33 member, has met a suitable standard of physical examination before becoming a fire
34 fighter, fire fighting instructor, rescue squad member, or advanced life support unit
35 member.

36 (D) (1) A PAID LAW ENFORCEMENT EMPLOYEE OF THE DEPARTMENT OF
37 NATURAL RESOURCES WHO IS A COVERED EMPLOYEE UNDER § 9-207 OF THIS TITLE
38 IS PRESUMED TO HAVE AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE
39 LINE OF DUTY AND IS COMPENSABLE UNDER THIS TITLE IF THE EMPLOYEE:

40 (4) (1) IS SUFFERING FROM LYME DISEASE; ~~AND~~

1 (⇒) (II) WAS NOT SUFFERING FROM LYME DISEASE BEFORE
2 ASSIGNMENT TO A POSITION THAT REGULARLY PLACES THE EMPLOYEE IN AN
3 OUTDOOR WOODED ENVIRONMENT; AND

4 (III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
5 DEMONSTRATES THAT THE EMPLOYEE HAD ANY LYME DISEASE VACCINATION
6 REQUIRED OR MADE AVAILABLE TO THE EMPLOYEE BY THE DEPARTMENT OF
7 NATURAL RESOURCES.

8 (2) THE REQUIREMENT IMPOSED BY PARAGRAPH (1)(III) OF THIS
9 SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHO OBJECTS TO IMMUNIZATION
10 BECAUSE IT CONFLICTS WITH THE INDIVIDUAL'S BONA FIDE RELIGIOUS BELIEFS
11 AND PRACTICES.

12 [(d)] (E) (1) Except as provided in paragraph (2) of this subsection, any paid
13 fire fighter, paid fire fighting instructor, sworn member of the Office of the State Fire
14 Marshal, paid police officer, PAID LAW ENFORCEMENT EMPLOYEE OF THE
15 DEPARTMENT OF NATURAL RESOURCES, or [any] deputy sheriff of Montgomery
16 County or Prince George's County who is eligible for benefits under subsection (a), (b),
17 [or] (c), OR (D) of this section shall receive the benefits in addition to any benefits that
18 the individual is entitled to receive under the retirement system in which the
19 individual was a participant at the time of the claim.

20 (2) The benefits received under this title shall be adjusted so that the
21 weekly total of those benefits and retirement benefits does not exceed the weekly
22 salary that was paid to the PAID LAW ENFORCEMENT EMPLOYEE OF THE
23 DEPARTMENT OF NATURAL RESOURCES, fire fighter, fire fighting instructor, sworn
24 member of the Office of the State Fire Marshal, police officer, or deputy sheriff.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1999.