
By: **Delegate Mitchell**

Introduced and read first time: February 3, 2000

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation Commission - Judicial Review**

3 FOR the purpose of altering the procedures used in judicial review of a determination
4 by the Workers' Compensation Commission; establishing that the proceedings
5 shall be conducted without a jury; eliminating the option of submitting a
6 disputed issue of fact to a jury; authorizing the reviewing court to order the
7 Commission to take additional evidence under certain conditions; authorizing
8 the Commission to modify a decision based on the additional evidence taken;
9 requiring the Commission to submit any additional evidence and any modified
10 findings or decision to the reviewing court; and generally relating to judicial
11 review of a determination by the Workers' Compensation Commission.

12 BY repealing and reenacting, with amendments,
13 Article - Labor and Employment
14 Section 9-745
15 Annotated Code of Maryland
16 (1999 Replacement Volume)

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

19 **Article - Labor and Employment**

20 9-745.

21 (a) The proceedings in an appeal shall:

22 (1) BE CONDUCTED WITHOUT A JURY;

23 [(1)] (2) be informal and summary; and

24 [(2)] (3) provide each party a full opportunity to be heard.

25 (b) In each court proceeding under this title:

1 (1) the decision of the Commission is presumed to be prima facie correct;
2 and

3 (2) the party challenging the decision has the burden of proof.

4 (c) The court shall determine whether the Commission:

5 (1) justly considered all of the facts about the accidental personal injury,
6 occupational disease, or compensable hernia;

7 (2) exceeded the powers granted to it under this title; or

8 (3) misconstrued the law and facts applicable in the case decided.

9 (d) (1) [On a motion of any party filed with the clerk of the court in
10 accordance with the practice in civil cases, the court shall submit to a jury any
11 question of fact involved in the case] JUDICIAL REVIEW OF DISPUTED ISSUES OF
12 FACT SHALL BE CONFINED TO THE RECORD FOR JUDICIAL REVIEW SUPPLEMENTED
13 BY ADDITIONAL EVIDENCE TAKEN IN ACCORDANCE WITH THIS SUBSECTION.

14 (2) THE COURT MAY ORDER THE COMMISSION TO TAKE ADDITIONAL
15 EVIDENCE ON TERMS THAT THE COURT CONSIDERS PROPER IF:

16 (I) BEFORE THE HEARING DATE IN COURT, A PARTY APPLIES FOR
17 LEAVE TO OFFER ADDITIONAL EVIDENCE; AND

18 (II) THE COURT IS SATISFIED THAT:

19 1. THE EVIDENCE IS MATERIAL; AND

20 2. THERE WERE GOOD REASONS FOR THE FAILURE TO
21 OFFER THE EVIDENCE IN THE PROCEEDING BEFORE THE COMMISSION.

22 (3) ON THE BASIS OF THE ADDITIONAL EVIDENCE, THE COMMISSION
23 MAY MODIFY THE FINDINGS AND DECISION.

24 (4) THE COMMISSION SHALL FILE WITH THE REVIEWING COURT, AS
25 PART OF THE RECORD:

26 (I) THE ADDITIONAL EVIDENCE; AND

27 (II) ANY MODIFICATIONS OF THE FINDINGS OR DECISION.

28 (e) (1) If the court determines that the Commission acted within its powers
29 and correctly construed the law and facts, the court shall confirm the decision of the
30 Commission.

31 (2) If the court determines that the Commission did not act within its
32 powers or did not correctly construe the law and facts, the court shall reverse or
33 modify the decision or remand the case to the Commission for further proceedings.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2000.