
By: **Senator Mooney**
Introduced and read first time: January 27, 2000
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation Insurance - Religious Waiver**

3 FOR the purpose of allowing an employee to waive coverage under the State's
4 workers' compensation laws if the employee is a member of a religious sect or
5 division of a sect and the beliefs of that sect or division require the employee to
6 oppose acceptance of public or private insurance benefits paid for death or a
7 disability incurred in the course of employment as the result of an occupational
8 injury or disease or medical services or treatments provided for an occupational
9 injury or disease incurred in the course of employment; requiring the waiver to
10 be submitted to the Workers' Compensation Commission on a form approved by
11 the Commission; providing that certain standards must be met for the
12 Commission to approve a waiver; providing for a certain presumption of validity;
13 requiring a parent or guardian of an employee under a certain age waiving
14 coverage under this Act to submit a waiver form on the employee's behalf;
15 providing for the termination of a waiver under certain circumstances; and
16 generally relating to an employee's waiver of coverage under the State workers'
17 compensation laws for certain religious reasons and the approval process for
18 that waiver.

19 BY repealing and reenacting, with amendments,
20 Article - Labor and Employment
21 Section 9-104
22 Annotated Code of Maryland
23 (1999 Replacement Volume)

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

26 **Article - Labor and Employment**

27 9-104.

28 (a) (1) Except as otherwise provided in this title AND IN SUBSECTION (E) OF
29 THIS SECTION, a covered employee or an employer of a covered employee may not by
30 agreement, rule, or regulation:

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

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

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

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

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

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

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

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

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

23 2. refers to the applicable federal law; and

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

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

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

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

35 (4) A common carrier by railroad or an employee of the carrier may end
36 an agreement made under this subsection on the part of the carrier or employee by

1 giving the Commission at least 30 days' written notice of intention to end the
2 agreement.

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

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

11 (1) voluntarily enters into the contract; and

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

14 (d) (1) Subject to paragraph (5) of this subsection, as part of a collective
15 bargaining agreement, an employer and a recognized or certified exclusive bargaining
16 representative of employees under the purview of the Building and Construction
17 Trade Council may agree to:

18 (i) an alternative dispute resolution system that modifies,
19 supplements, or replaces all or part of the dispute prevention and dispute resolution
20 processes contained in this title, and that may include but is not limited to mediation
21 and binding arbitration;

22 (ii) the use of an agreed list of health care providers of medical
23 treatment and expertise, which may be the source of all medical and related
24 examinations, treatment, and testimony provided under this title;

25 (iii) the use of an agreed list of health care providers to conduct
26 independent medical examinations;

27 (iv) a light duty, modified job, or return to work program; and

28 (v) a vocational rehabilitation or retraining program.

29 (2) (i) All settlements and resolutions of claims under an alternative
30 dispute resolution system shall be submitted to the Commission for approval. The
31 Commission shall approve settlements and resolutions of claims that the Commission
32 determines are in compliance with this title.

33 (ii) All arbitration decisions under an alternative dispute resolution
34 system shall be reviewable in the same manner and under the same procedures as a
35 decision of a commissioner.

1 (3) An agreement under this subsection is not valid until it has been
2 filed with the Commission and determined by the Commission to be in compliance
3 with this subsection and this title.

4 (4) Once an agreement under this subsection has been determined to be
5 in compliance with this subsection and this title by the Commission it is binding on
6 the employer and the bargaining unit.

7 (5) This subsection does not allow an agreement that:

8 (i) exempts a covered employee or an employer from a duty of the
9 covered employee or employer under this title;

10 (ii) waives or limits a right or benefit of a covered employee or
11 employer under this title, except as otherwise set forth in this subsection;

12 (iii) affects the imposition of an assessment on settlements and
13 resolutions of claims, as described in §§ 9-806 and 9-1007 of this article; or

14 (iv) affects claims made under Subtitle 8 or Subtitle 10 of this title
15 or claims made under Title 10, Subtitle 2 of this article.

16 (6) An agreement that violates paragraph (5) of this subsection is void.

17 (7) Notwithstanding paragraph (1)(ii) of this subsection, an injured
18 employee whose injury or treatment is related to a medical condition for which the
19 employee is being or has been treated may continue to seek treatment from the health
20 care provider who is treating or has treated the condition.

21 (8) An agreement under this subsection shall provide for an appeal
22 mechanism for a covered employee who wishes to use a health care provider who is
23 not on the agreed list of health care providers.

24 (9) Nothing in this subsection requires an insurer to underwrite a
25 program established under paragraph (1) of this subsection.

26 (E) (1) AN EMPLOYEE MAY AGREE TO WAIVE ALL BENEFITS UNDER THIS
27 TITLE BY SIGNING AN AFFIDAVIT THAT THE EMPLOYEE IS:

28 (I) A MEMBER OF A RECOGNIZED RELIGIOUS SECT OR A DIVISION
29 OF A RECOGNIZED RELIGIOUS SECT; AND

30 (II) AN ADHERENT OF ESTABLISHED TENETS OF THAT SECT OR
31 DIVISION THAT REQUIRE THE EMPLOYEE TO CONSCIENTIOUSLY OPPOSE THE
32 ACCEPTANCE OF BENEFITS UNDER A PUBLIC OR PRIVATE INSURANCE PROGRAM
33 THAT:

34 1. MAKES PAYMENTS FOR DEATH OR A DISABILITY
35 INCURRED BY THE EMPLOYEE IN THE COURSE OF EMPLOYMENT AS THE RESULT OF
36 AN OCCUPATIONAL INJURY OR DISEASE; OR

