

SENATE BILL 677

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SB 419/00 - ECM

2001 Regular Session
11r2347
CF 11r2348

By: **Senators DeGrange, Currie, Exum, Hafer, Lawlah, and Mitchell**
Introduced and read first time: February 2, 2001
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Occupational Diseases - Compensation for Certain**
3 **Contagious Diseases**

4 FOR the purpose of providing that human immunodeficiency virus, meningococcal
5 meningitis, tuberculosis, mononucleosis, liver cancer, any form of viral hepatitis,
6 diphtheria, hemorrhagic fevers, and rabies are to be considered inherent to the
7 nature of employment under the State workers' compensation laws for certain
8 fire or safety personnel; creating a presumption as to the potential of developing
9 a compensable occupational disease for those personnel who are exposed to one
10 of the listed diseases; providing that an individual filing a claim under this Act
11 has the burden of proving that the exposure occurred; defining a certain term;
12 and generally relating to claims for certain diseases under the State workers'
13 compensation laws.

14 BY repealing and reenacting, without amendments,
15 Article - Labor and Employment
16 Section 9-502
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2000 Supplement)

19 BY adding to
20 Article - Labor and Employment
21 Section 9-503.1
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2000 Supplement)

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

1

Article - Labor and Employment

2 9-502.

3 (a) In this section, "disablement" means the event of a covered employee
4 becoming partially or totally incapacitated:

5 (1) because of an occupational disease; and

6 (2) from performing the work of the covered employee in the last
7 occupation in which the covered employee was injuriously exposed to the hazards of
8 the occupational disease.

9 (b) Subsection (c) of this section applies only to:

10 (1) the employer in whose employment the covered employee was last
11 injuriously exposed to the hazards of the occupational disease; and

12 (2) the insurer liable for the risk when the covered employee, while
13 employed by the employer, was last injuriously exposed to the hazards of the
14 occupational disease.

15 (c) Subject to subsection (d) of this section and except as otherwise provided,
16 an employer and insurer to whom this subsection applies shall provide compensation
17 in accordance with this title to:

18 (1) a covered employee of the employer for disability of the covered
19 employee resulting from an occupational disease; or

20 (2) the dependents of the covered employee for death of the covered
21 employee resulting from an occupational disease.

22 (d) An employer and insurer are liable to provide compensation under
23 subsection (c) of this section only if:

24 (1) the occupational disease that caused the death or disability:

25 (i) is due to the nature of an employment in which hazards of the
26 occupational disease exist and the covered employee was employed before the date of
27 disablement; or

28 (ii) has manifestations that are consistent with those known to
29 result from exposure to a biological, chemical, or physical agent that is attributable to
30 the type of employment in which the covered employee was employed before the date
31 of disablement; and

32 (2) on the weight of the evidence, it reasonably may be concluded that
33 the occupational disease was incurred as a result of the employment of the covered
34 employee.

1 (e) A covered employee or a dependent of the covered employee is not entitled
2 to compensation for a disability or death that results from an occupational disease if,
3 when the covered employee began employment with the employer, the covered
4 employee falsely represented in writing that the covered employee had not been
5 disabled, laid off, or compensated in damages or otherwise, due to the occupational
6 disease for which the covered employee or dependent is seeking compensation.

7 9-503.1.

8 (A) IN THIS SECTION, THE TERM "ANY FORM OF VIRAL HEPATITIS" INCLUDES
9 THE FORMS HEPATITIS A, HEPATITIS B, HEPATITIS C, HEPATITIS D, HEPATITIS E,
10 HEPATITIS F, AND HEPATITIS G.

11 (B) NOTWITHSTANDING § 9-502 OF THIS SUBTITLE, THE HAZARDS OF
12 EXPOSURE TO HUMAN IMMUNODEFICIENCY VIRUS (HIV), MENINGOCOCCAL
13 MENINGITIS, TUBERCULOSIS, MONONUCLEOSIS, LIVER CANCER, ANY FORM OF VIRAL
14 HEPATITIS, DIPHTHERIA, HEMORRHAGIC FEVERS, AND HYDROPHOBIA (RABIES)
15 EXIST AND ARE INHERENT TO THE NATURE OF EMPLOYMENT FOR THE FOLLOWING
16 INDIVIDUALS:

17 (1) A PAID FIREFIGHTER;

18 (2) A PAID FIRE FIGHTING INSTRUCTOR;

19 (3) A SWORN MEMBER OF THE OFFICE OF THE STATE FIRE MARSHAL
20 EMPLOYED BY:

21 (I) AN AIRPORT AUTHORITY;

22 (II) A COUNTY;

23 (III) A FIRE CONTROL DISTRICT;

24 (IV) A MUNICIPALITY; OR

25 (V) THE STATE; OR

26 (4) ANY OF THE FOLLOWING INDIVIDUALS WHO QUALIFY AS A COVERED
27 EMPLOYEE UNDER § 9-234 OF THIS TITLE:

28 (I) A VOLUNTEER FIREFIGHTER;

29 (II) A VOLUNTEER FIRE FIGHTING INSTRUCTOR;

30 (III) A VOLUNTEER RESCUE SQUAD MEMBER; OR

31 (IV) A VOLUNTEER ADVANCED SUPPORT UNIT MEMBER.

32 (C) (1) AN INDIVIDUAL LISTED IN SUBSECTION (B) OF THIS SECTION WHO IS
33 EXPOSED ONE OR MORE TIMES TO A DISEASE LISTED IN SUBSECTION (B) OF THIS

1 SECTION SHALL BE PRESUMED TO HAVE THE POTENTIAL OF DEVELOPING A
2 COMPENSABLE OCCUPATIONAL DISEASE.

3 (2) AN INDIVIDUAL FILING A CLAIM FOR COMPENSATION FOR AN
4 OCCUPATIONAL DISEASE UNDER THIS SECTION SHALL HAVE THE BURDEN OF
5 DEMONSTRATING ONE OR MORE OCCUPATIONAL EXPOSURES TO THE DISEASE
6 INCURRED.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2001.