

HOUSE BILL 67

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HB 1316/01 - ECM

2002 Regular Session
2lr0704

(PRE-FILED)

By: ~~Delegate Fulton~~ **Delegates Fulton, Barve, Brown, Goldwater, Gordon,
Krysiak, La Vay, McHale, and Moe**

Requested: October 18, 2001
Introduced and read first time: January 9, 2002
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 23, 2002

CHAPTER _____

1 AN ACT concerning

2 **Genetic Discrimination - Workers' Compensation Coverage and Benefits**

3 FOR the purpose of prohibiting ~~discrimination in coverage, benefits, or determination~~
4 ~~of disability in workers' compensation based on an employee's genetic~~
5 ~~information or genetic test~~ an insurer or employer from refusing to provide
6 compensation to a certain employee or from reducing a certain employee's
7 compensation award because of the employee's genetic information; prohibiting
8 a workers' compensation insurer from canceling a policy or refusing to issue a
9 policy or provide coverage ~~based on~~ because of an employee's genetic information
10 or genetic test; defining certain terms; and generally relating to genetic
11 discrimination in workers' compensation.

12 BY adding to
13 Article - Insurance
14 Section 19-407
15 Annotated Code of Maryland
16 (1997 Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Labor and Employment
19 Section 9-101
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2001 Supplement)

22 BY adding to

1 Article - Labor and Employment
 2 Section ~~9-402.1, 9-501.1, and 9-612~~ 9-501.1
 3 Annotated Code of Maryland
 4 (1999 Replacement Volume and 2001 Supplement)

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

7 **Article - Insurance**

8 19-407.

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 10 INDICATED.

11 (2) "GENETIC INFORMATION" HAS THE MEANING ~~PROVIDED UNDER~~
 12 STATED IN § 27-909(A)(3) OF THIS ARTICLE 9-101 OF THE LABOR AND EMPLOYMENT
 13 ARTICLE.

14 (3) "GENETIC TEST" HAS THE MEANING ~~PROVIDED UNDER STATED IN §~~
 15 27-909(A)(5) OF THIS ARTICLE § 9-101 OF THE LABOR AND EMPLOYMENT ARTICLE.

16 (B) AN INSURER MAY NOT REFUSE TO ISSUE A WORKERS' COMPENSATION
 17 POLICY TO AN EMPLOYER DUE TO BECAUSE OF INFORMATION CONTAINED IN A
 18 GENETIC TEST OR THE GENETIC INFORMATION OF THE EMPLOYER'S EMPLOYEE.

19 (C) AN INSURER MAY NOT REFUSE TO ~~COVER~~ INSURE AN EMPLOYEE OF AN
 20 EMPLOYER TO WHOM THE INSURER HAS ISSUED A WORKERS' COMPENSATION
 21 POLICY DUE TO BECAUSE OF INFORMATION CONTAINED IN A GENETIC TEST OR THE
 22 GENETIC INFORMATION OF THE EMPLOYER'S EMPLOYEE.

23 (D) AN INSURER MAY NOT CANCEL AN EMPLOYER'S WORKERS'
 24 COMPENSATION POLICY DUE TO BECAUSE OF INFORMATION CONTAINED IN A
 25 GENETIC TEST OR THE GENETIC INFORMATION OF THE EMPLOYER'S EMPLOYEE.

26 **Article - Labor and Employment**

27 9-101.

28 (a) In this title the following words have the meanings indicated.

29 (b) "Accidental personal injury" means:

30 (1) an accidental injury that arises out of and in the course of
 31 employment;

32 (2) an injury caused by a willful or negligent act of a third person
 33 directed against a covered employee in the course of the employment of the covered
 34 employee; or

1 (3) a disease or infection that naturally results from an accidental injury
2 that arises out of and in the course of employment, including:

3 (i) an occupational disease; and

4 (ii) frostbite or sunstroke caused by a weather condition.

5 (c) "Child" includes:

6 (1) an adopted child;

7 (2) an illegitimate child;

8 (3) a posthumous child; and

9 (4) a stepchild.

10 (d) "Commission" means the State Workers' Compensation Commission.

11 (e) (1) "Compensation" means the money payable under this title to a
12 covered employee or the dependents of a covered employee.

13 (2) "Compensation" includes funeral benefits payable under this title.

14 (f) "Covered employee" means an individual listed in Subtitle 2 of this title for
15 whom a person, a governmental unit, or a quasi-public corporation is required by law
16 to provide coverage under this title.

17 (G) (1) "GENETIC INFORMATION" MEANS INFORMATION THAT:

18 (I) ~~ABOUT CHROMOSOMES, GENES, GENE PRODUCTS, OR~~
19 ~~INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR A~~
20 ~~FAMILY MEMBER RELATES TO A GENETIC TEST OF AN INDIVIDUAL OR FAMILY~~
21 MEMBER OF THE INDIVIDUAL;

22 (II) ~~OBTAINED FOR DIAGNOSTIC AND THERAPEUTIC PURPOSES IS~~
23 USED TO PREDICT RISK OF DISEASE IN ASYMPTOMATIC OR UNDIAGNOSED
24 INDIVIDUALS; AND

25 (III) IS OBTAINED AT A TIME WHEN THE INDIVIDUAL TO WHOM THE
26 INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE.

27 (2) "GENETIC INFORMATION" DOES NOT INCLUDE:

28 (I) ROUTINE PHYSICAL MEASUREMENTS;

29 (II) ~~CHEMICAL, BLOOD, AND URINE ANALYSES THAT ARE WIDELY~~
30 ~~ACCEPTED AND IN USE IN CLINICAL PRACTICE; INFORMATION DERIVED FROM~~
31 CLINICAL AND LABORATORY TESTS USED TO DETERMINE HEALTH STATUS, DETECT
32 ILLNESS, OR DIAGNOSE DISEASE, INCLUDING CHEMICAL, BLOOD, OR URINE
33 ANALYSES OF AN INDIVIDUAL AND CHOLESTEROL TESTS;

1 (III) INFORMATION ABOUT PHYSICAL EXAMS OF AN INDIVIDUAL;

2 ~~(III)~~ (IV) TESTS FOR USE OF DRUGS; OR

3 ~~(IV)~~ (V) TESTS FOR THE PRESENCE OF THE HUMAN
4 IMMUNODEFICIENCY VIRUS.

5 (H) (1) "GENETIC TEST" MEANS A LABORATORY TEST OF HUMAN
6 CHROMOSOMES, GENES, OR GENE PRODUCTS THAT IS USED TO IDENTIFY THE
7 PRESENCE OR ABSENCE OF INHERITED OR CONGENITAL ALTERATIONS IN GENETIC
8 MATERIAL THAT ARE ASSOCIATED WITH DISEASE OR ILLNESS.

9 (2) "GENETIC TEST" DOES NOT INCLUDE A TEST DESCRIBED IN
10 SUBSECTION (G)(2) OF THIS SECTION.

11 [(g)] (I) "Occupational disease" means a disease contracted by a covered
12 employee:

13 (1) as the result of and in the course of employment; and

14 (2) that causes the covered employee to become temporarily or
15 permanently, partially or totally incapacitated.

16 ~~9-402.1.~~

17 ~~AN EMPLOYER MAY NOT REFUSE TO SECURE COMPENSATION FOR A COVERED~~
18 ~~EMPLOYEE UNDER THIS SUBTITLE DUE TO INFORMATION CONTAINED IN THE~~
19 ~~COVERED EMPLOYEE'S GENETIC TEST OR GENETIC INFORMATION.~~

20 ~~9-501.1.~~

21 AN INSURER OR EMPLOYER MAY NOT:

22 (1) REFUSE TO PROVIDE COMPENSATION TO A COVERED EMPLOYEE
23 ~~UNDER THIS SUBTITLE DUE TO INFORMATION CONTAINED IN THE COVERED~~
24 ~~EMPLOYEE'S GENETIC TEST OR GENETIC INFORMATION~~ BECAUSE OF THE
25 EMPLOYEE'S GENETIC INFORMATION; OR

26 (2) REDUCE A COVERED EMPLOYEE'S COMPENSATION ~~DUE TO~~
27 ~~INFORMATION CONTAINED IN THE COVERED EMPLOYEE'S GENETIC TEST OR~~
28 ~~GENETIC INFORMATION~~ BECAUSE OF THE EMPLOYEE'S GENETIC INFORMATION.

29 ~~9-612.~~

30 ~~A COVERED INJURED EMPLOYEE'S COMPENSATION OR A DETERMINATION OF~~
31 ~~THE DEGREE OF DISABILITY OF A COVERED INJURED EMPLOYEE MAY NOT BE~~
32 ~~AFFECTED BY INFORMATION CONTAINED IN THE EMPLOYEE'S GENETIC TEST OR~~
33 ~~GENETIC INFORMATION.~~

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2002.

