
By: **Delegate Mitchell**

Introduced and read first time: January 30, 2002

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Principal Contractor - Liability**

3 FOR the purpose of limiting the liability of a principal contractor for workers'
4 compensation payments if a sole proprietor does not notify the principal
5 contractor of the sole proprietor's status as a covered employee; providing for a
6 certain presumption that a sole proprietor is not a covered employee if the sole
7 proprietor provides a certain notice to the principal contractor; and generally
8 relating to workers' compensation payments.

9 BY repealing and reenacting, without amendments,
10 Article - Labor and Employment
11 Section 9-227 and 9-508(a)
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Labor and Employment
16 Section 9-508(f)
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2001 Supplement)

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

21 **Article - Labor and Employment**

22 9-227.

23 (a) Unless an election is made in accordance with this section, a sole
24 proprietor is not a covered employee.

25 (b) A sole proprietor may elect to be a covered employee if the proprietor
26 devotes full time to the business of the proprietorship.

1 (c) An election under this section is not effective until the proprietor submits
2 to the Commission and to the insurer of the proprietor a written notice that names
3 the individual who is to be a covered employee.

4 9-508.

5 (a) A principal contractor is liable to pay to a covered employee or the
6 dependents of the covered employee any compensation that the principal contractor
7 would have been liable to pay had the covered employee been employed directly by the
8 principal contractor if:

9 (1) the principal contractor undertakes to perform any work that is part
10 of the business, occupation, or trade of the principal contractor;

11 (2) the principal contractor contracts with a subcontractor for the
12 execution by or under the subcontractor of all or part of the work undertaken by the
13 principal contractor; and

14 (3) the covered employee is employed in the execution of that work.

15 (f) (1) A principal contractor is not liable to pay compensation to an
16 individual under this title if the individual:

17 (i) is a corporate officer, or a member of a limited liability company,
18 who elects to be exempt from coverage under § 9-206 of this title;

19 (ii) is a partner in a partnership and the partnership does not elect
20 to make the individual a covered employee under § 9-219 of this title; or

21 (iii) is a sole proprietor who:

22 1. DOES NOT NOTIFY THE PRINCIPAL CONTRACTOR, ON A
23 FORM APPROVED BY THE COMMISSION, OF THE INDIVIDUAL'S STATUS AS A COVERED
24 EMPLOYEE; and

25 2. does not elect to be a covered employee under § 9-227 of
26 this title.

27 (2) An individual is presumed to be a sole proprietor who is not a covered
28 employee under this section if:

29 (i) a substantial part of the individual's income is derived from the
30 trade or business for which a principal contractor engages the individual and from
31 which the individual has attempted to earn taxable income; [and]

32 (ii) THE INDIVIDUAL NOTIFIES THE PRINCIPAL CONTRACTOR ON A
33 FORM APPROVED BY THE COMMISSION THAT THE INDIVIDUAL HAS NOT ELECTED TO
34 BECOME A COVERED EMPLOYEE UNDER § 9-227 UNDER THIS TITLE; AND

35 (III) the individual has filed the appropriate Internal Revenue Form
36 1040, Schedule C or F, for the previous taxable year.

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