

---

By: **Senators Ruben, Della, Stone, and Teitelbaum**  
Introduced and read first time: January 31, 2002  
Assigned to: Finance

---

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Appeals - Evidence**

3 FOR the purpose of allowing a physician's report to be admitted into evidence on  
4 appeal from the Workers' Compensation Commission; establishing conditions  
5 for admission of a physician's report; allowing a responding party to enter a  
6 physician's deposition into evidence; and generally relating to evidence in a  
7 Workers' Compensation appeal.

8 BY repealing and reenacting, with amendments,  
9 Article - Labor and Employment  
10 Section 9-745  
11 Annotated Code of Maryland  
12 (1999 Replacement Volume and 2001 Supplement)

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

15 **Article - Labor and Employment**

16 9-745.

17 (a) The proceedings in an appeal shall:

18 (1) be informal and summary; and

19 (2) provide each party a full opportunity to be heard.

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

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

22 and

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

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

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

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

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

5 (d) On a motion of any party filed with the clerk of the court in accordance  
6 with the practice in civil cases, the court shall submit to a jury any question of fact  
7 involved in the case.

8 (e) (1) A WRITING OR RECORD CONTAINING THE OPINION OF A PHYSICIAN  
9 IS ADMISSIBLE IN EVIDENCE WITHOUT THE SUPPORT OF THE TESTIMONY OF A  
10 PHYSICIAN IF:

11 (I) THE PRESENTING PARTY FURNISHES A COPY OF THE REPORT  
12 TO THE OTHER PARTY; AND

13 (II) THE RESPONDING PARTY HAS AN OPPORTUNITY TO EXAMINE  
14 THE PHYSICIAN BY DEPOSITION.

15 (2) THE DEPOSITION DESCRIBED IN PARAGRAPH (1)(II) OF THIS  
16 SUBSECTION MAY BE OFFERED INTO EVIDENCE BY THE RESPONDING PARTY.

17 (3) THE WRITING OR RECORD IS SUBMITTED IN ACCORDANCE WITH  
18 RULE 10-104 IN THE DISTRICT COURT.

19 (F) (1) If the court determines that the Commission acted within its powers  
20 and correctly construed the law and facts, the court shall confirm the decision of the  
21 Commission.

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
26 construed to apply retroactively and shall be applied to and interpreted to affect all  
27 appeals filed after January 1, 2001.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2002.