

SENATE BILL 745

Unofficial Copy  
K1

2002 Regular Session  
2lr2371  
CF 2lr1889

---

By: **Senator Della**  
Introduced and read first time: February 1, 2002  
Assigned to: Finance

---

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Exclusivity of Compensation - Principal**  
3 **Contractor**

4 FOR the purpose of authorizing certain employees and certain persons under certain  
5 circumstances to bring a claim for compensation or to bring an action for  
6 damages against certain principal contractors; authorizing self-insured  
7 employers, insurers, the Subsequent Injury Fund, and the Uninsured  
8 Employers' Fund to bring an action for damages against certain principal  
9 contractors; and generally relating to workers' compensation and principal  
10 contractors.

11 BY repealing and reenacting, with amendments,  
12 Article - Labor and Employment  
13 Section 9-509, 9-901, and 9-902(a)  
14 Annotated Code of Maryland  
15 (1999 Replacement Volume and 2001 Supplement)

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

18 **Article - Labor and Employment**

19 9-509.

20 (a) Except as otherwise provided in this title, the liability of an employer  
21 under this title is exclusive.

22 (b) Except as otherwise provided in this title, the compensation provided  
23 under this title to a covered employee or the dependents of a covered employee is in  
24 place of any right of action against any person.

25 (c) (1) If an employer fails to secure compensation in accordance with this  
26 title, a covered employee who has sustained an accidental personal injury,  
27 compensable hernia, or occupational disease or, in case of death, the personal  
28 representative of the covered employee may:

1 (i) bring a claim for compensation under this title; or

2 (ii) bring an action for damages.

3 (2) In an action of a covered employee or personal representative under  
4 this subsection, an employer may not plead as a defense that:

5 (i) the covered employee assumed the risk of employment;

6 (ii) the covered employee was contributorily negligent; or

7 (iii) the negligence of a fellow servant caused the accidental  
8 personal injury, compensable hernia, or occupational disease.

9 (d) If a covered employee is injured or killed as the result of the deliberate  
10 intent of the employer to injure or kill the covered employee, the covered employee or,  
11 in the case of death, a surviving spouse, child, or dependent of the covered employee  
12 may:

13 (1) bring a claim for compensation under this title; or

14 (2) bring an action for damages against the employer.

15 (E) IF A SUBCONTRACTOR HAS SECURED COMPENSATION IN ACCORDANCE  
16 WITH THIS TITLE AND A COVERED EMPLOYEE OF THE SUBCONTRACTOR SUSTAINS  
17 AN INJURY OR DIES AS THE RESULT OF THE NEGLIGENCE OF A PRINCIPAL  
18 CONTRACTOR, THE COVERED EMPLOYEE, OR IN THE CASE OF DEATH, THE PERSONAL  
19 REPRESENTATIVE, SURVIVING SPOUSE, CHILD, OR OTHER DEPENDENT OF THE  
20 COVERED EMPLOYEE MAY:

21 (1) BRING A CLAIM FOR COMPENSATION UNDER THIS TITLE; OR

22 (2) NOTWITHSTANDING § 9-508 OF THIS SUBTITLE, BRING AN ACTION  
23 FOR DAMAGES AGAINST THE PRINCIPAL CONTRACTOR.

24 9-901.

25 When a person other than an employer, BUT INCLUDING A PRINCIPAL  
26 CONTRACTOR DESCRIBED UNDER § 9-509(E) OF THIS TITLE, is liable for the injury or  
27 death of a covered employee for which compensation is payable under this title, the  
28 covered employee or, in case of death, the personal representative or dependents of  
29 the covered employee may:

30 (1) file a claim for compensation against the employer under this title; or

31 (2) bring an action for damages against the person liable for the injury or  
32 death or, in case of joint tort feasons, against each joint tort feason.

1 9-902.

2 (a) If a claim is filed and compensation is awarded or paid under this title, a  
3 self-insured employer, an insurer, the Subsequent Injury Fund, or the Uninsured  
4 Employers' Fund may bring an action for damages against the third party,  
5 INCLUDING A PRINCIPAL CONTRACTOR, who is liable for the injury or death of the  
6 covered employee.

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