

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 890
Economic Matters

(Delegate McHale, *et al.*)

Workers' Compensation - Occupational Disease - Definition

This bill adds “an infectious disease that may have arisen from one or more exposures of indeterminate dates” to the existing definition of “occupational disease” for purposes of workers’ compensation.

Fiscal Summary

State Effect: Potential increase in State worker’s compensation expenditures (all funds) depending on the amount of new claims that result.

Local Effect: Potential increase in expenditures for local governments depending on the amount of new claims that result.

Small Business Effect: Minimal.

Analysis

Current Law: The definition of “occupational disease” for purpose of workers’ compensation is a disease that has been contracted by a covered employee as the result of and in the course of employment and causes the employee to become temporarily or permanently, partially, or totally incapacitated.

Background: An infectious disease is a disease caused by the entrance into the body of organisms (as bacteria, protozoans, fungi, or viruses), which grow and multiply there. The organisms can be transmitted by contact with an individual who has it, with a bodily discharge of such an individual, or with an object touched by such an individual.

Many courts have held that mere exposure to an infectious disease is not enough to constitute a compensable event. However, historically, where the employee has sustained actual exposures to life threatening infectious diseases in incidents that arise out of and occur in the course of his or her employment, the employee has been found to suffer compensable injuries. See *Baker v. Farmers Union Mktg. & Processing Ass'n*, Minnesota Workers' Compensation Court of Appeals, March 14, 2000 (exposure to histoplasma); *Dove v. City of Stamford*, 699 A.2d 52 (1997) (exposure to human immunodeficiency virus and tuberculosis); *Hansen v. Gordon*, 602 A.2d. 560 (1992) (exposure to hepatitis type B virus); *Tartas' Case*, 105 N.E.2d 380 (1952) (exposure to anthrax).

Infectious diseases are the leading cause of death worldwide, and the number of deaths from infectious diseases in the United States has been increasing. Infectious diseases ranked third among the leading causes of death in 1992 in the United States.

In July of 2000, the Secretary of Health and Mental Hygiene appointed a Contagious Disease Committee to address issues regarding occupational exposure to contagious (or infectious) diseases among State public safety employees including police, correctional officers, firefighters, and emergency medical technicians. In January 2001, the committee issued its final report. In this report, the committee found that regulatory standards currently exist (Bloodborne Pathogen Standard, 29 C.F.R. 1910.1030, the Labor and Employment Article, Title 5, and COMAR 09.12.31) that prescribe safeguards to protect public safety workers from exposure to blood and other potentially contagious body fluids, and to reduce their risk to this exposure.

State Expenditures: No data are available on the number of claims that might become compensable under this bill. Due to the inclusion of "infectious disease" in the definition of "occupational disease," this bill may result in an increase in individuals who would be eligible for a workers' compensation award.

The Injured Workers' Insurance Fund (IWIF), which administers workers' compensation for State employees, advises that although there would be an expected increase in claims it is impossible to calculate the impact of the bill on IWIF or on the State. Current claims for infectious diseases are a negligible percentage of overall claims filed with IWIF.

Additional Information

Prior Introductions: None.

Cross File: SB 584 (Senator DeGrange) – Finance.

Information Source(s): Uninsured Employers’ Fund, Workers’ Compensation Commission, Subsequent Injury Fund, Department of Legislative Services

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