

SENATE BILL 638

Unofficial Copy
K1

2004 Regular Session
4r2923
CF 4r1714

By: **Senator Astle**

Introduced and read first time: February 6, 2004

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Accidental Personal Injury - Definition**

3 FOR the purpose of altering the definition of "accidental personal injury" under
4 workers' compensation law to require that a compensable accidental injury must
5 arise on a specific date and at a specific time; requiring that a compensable
6 accidental injury must result from a risk that is causally connected to the
7 conditions of employment and not as the result of a risk that is purely personal
8 in nature; providing for the application of this Act; and generally relating to the
9 definition of "accidental personal injury" under workers' compensation law.

10 BY repealing and reenacting, with amendments,
11 Article - Labor and Employment
12 Section 9-101(b)
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2003 Supplement)

15 Preamble

16 WHEREAS, The Maryland General Assembly believes it is sound public policy
17 to provide the highest level of compensation possible to injured workers in the most
18 cost-efficient manner possible without adversely impacting business in Maryland;
19 and

20 WHEREAS, The Court of Appeals of Maryland in *Harris v. Board of Education*
21 of Howard County, 375 Md. 21 (2003), has overruled 75 years of case law defining
22 accidental injury as requiring an unusual occurrence or unusual condition of
23 employment; and

24 WHEREAS, The Court of Appeals of Maryland in *Applied Industrial*
25 *Technologies v. Ludemann*, 148 Md. App. 272 (2002), held that an injured worker does
26 not have to provide a specific date and time for an alleged accidental injury for the
27 claim to be compensable; and

28 WHEREAS, The Maryland General Assembly finds that the *Harris* and *Applied*
29 *Industrial Technologies* decisions are contrary to the State of Maryland's efforts to

1 reduce the number of fraudulent workers' compensation claims filed each year in the
2 State; and

3 WHEREAS, The Maryland General Assembly finds that the Harris and the
4 Applied Industrial Technologies decisions are contrary to sound public policy
5 requiring a compensable workers' compensation injury to have a nexus to
6 employment; and

7 WHEREAS, In 1997 Maryland's workers' compensation system was rated as the
8 fourth most cost-efficient in the country by the National Council on Compensation
9 Insurance, but today Maryland is rated as the seventeenth most cost-efficient
10 workers' compensation system in the country; and

11 WHEREAS, The Injured Workers Insurance Fund estimates that the Harris
12 decision will increase the cost of workers' compensation claims in Maryland by
13 \$60,000,000; and

14 WHEREAS, The Maryland General Assembly finds the codification of the
15 increased risk doctrine to be an acceptable compromise between management and
16 labor for determining the compensability, in part, of workers' compensation claims;
17 now, therefore,

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

20 **Article - Labor and Employment**

21 9-101.

22 (b) "Accidental personal injury" means:

23 (1) an accidental injury that arises:

24 (I) out of and in the course of employment;

25 (II) ON A SPECIFIC DATE AND AT A SPECIFIC TIME; AND

26 (III) AS THE RESULT OF A RISK THAT IS CAUSALLY CONNECTED TO
27 THE CONDITIONS OF THE EMPLOYMENT AND NOT THE RESULT OF A RISK THAT IS
28 PURELY PERSONAL IN NATURE;

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

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

34 (i) an occupational disease; and

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

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
3 construed to apply only prospectively and may not be applied or interpreted to have
4 any effect on or application to any accidental personal injury occurring before the
5 effective date of this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2004.