

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 636 (Delegate Wood)
Economic Matters

Workers' Compensation - Accidental Personal Injury - Definition

This bill further defines “accidental personal injury” for purposes of workers’ compensation as arising from an identifiable incident occurring at some reasonably definite time and directly causing an obvious, sudden mechanical or structural change in the body.

The bill is applied prospectively only.

Fiscal Summary

State Effect: None. The bill generally codifies existing practice.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Accidental personal injury is an accidental injury that arises out of and in the course of employment, an injury caused by a willful or negligent third person in the course of employment, or a disease or infection that naturally results from an accidental injury in the course of employment.

Background: In Maryland, in order for an injury to be covered, the harm suffered by the employee must have been caused by an accidental personal injury arising out of and in the course of employment. Exceptions to the accident requirement are occupational diseases. For a compensable accidental injury claim, the injury must arise out of the

employment. If the condition under which the work is required to be performed by the employer causes the worker's injury, it is said to arise out of the employment.

For a compensable accidental injury claim, the injury must also be in the course of employment. If the injury occurs during the period of time when an employee was at work, the employer's place of business or such other location as may have been designated by the employer, and while the employee was performing their job duties or something related to them when the injury took place, the injury is said to have arisen in the course of that person's employment.

The National Council on Compensation Insurance conducted a survey of several top insurance carriers in Maryland, determining that most carriers are currently handling claims on a basis consistent with the bill's provisions.

The definition of an accidental personal injury is an injury that arises out of and in the course of employment. Case law dating to 1927 generally supported that the injury must have been caused by an unusual activity. However, in June 2003, the Maryland Court of Appeals (*Vernell Harris v. Board of Education of Howard County*, CA No. 43, Sept. Term 2002) held that there was no statutory basis for that standard to apply in order for an injury to be compensable. Since that decision, several bills have been introduced to the General Assembly (all have failed) to expand the definition of personal accidental injury to include that an injury must have resulted from an unusual activity.

Additional Information

Prior Introductions: None.

Cross File: SB 490 (Senator Astle) – Finance.

Information Source(s): Worker's Compensation Commission; Injured Workers' Insurance Fund; Subsequent Injury Fund; National Council on Compensation Insurance, Inc.; Department of Legislative Services

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