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By: **Delegates Wood and Minnick (Workers' Compensation Benefit and Insurance Oversight Committee) and Delegates Bohanan, Jameson, Levy, Malone, Mayer, and Weir**

Introduced and read first time: February 9, 2006

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Civil Defense Volunteers - Emergencies**

3 FOR the purpose of providing that certain civil defense volunteers are covered  
4 employees under certain circumstances; designating the State as the employer  
5 for these covered employees; repealing certain provisions under workers'  
6 compensation law that exclude workers' compensation coverage for certain  
7 volunteers from certain counties; requiring volunteers who are covered  
8 employees to meet certain qualifications; providing for certain administrative  
9 requirements as a condition of receiving workers' compensation benefits;  
10 establishing a certain formula for calculating certain benefits; defining certain  
11 terms; providing for the application of this Act; and generally relating to covered  
12 employment under workers' compensation law.

13 BY repealing and reenacting, with amendments,  
14 Article - Labor and Employment  
15 Section 9-215 and 9-232  
16 Annotated Code of Maryland  
17 (1999 Replacement Volume and 2005 Supplement)

18 BY adding to  
19 Article - Labor and Employment  
20 Section 9-232.1  
21 Annotated Code of Maryland  
22 (1999 Replacement Volume and 2005 Supplement)

23 BY repealing and reenacting, without amendments,  
24 Article - Public Safety  
25 Section 14-101(c), 14-107(a), 14-108(a), 14-3A-01(b) and (c), 14-602(1) and (7),  
26 and 14-702(1) and (8)  
27 Annotated Code of Maryland  
28 (2003 Volume and 2005 Supplement)

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

3 **Article - Labor and Employment**

4 9-215.

5 (A) IN THIS SECTION, "ORGANIZED MILITIA" INCLUDES MEMBERS OF THE  
6 MARYLAND DEFENSE FORCE DESCRIBED UNDER § 13-203 OF THE PUBLIC SAFETY  
7 ARTICLE.

8 [(a)] (B) Each officer or enlisted member of the organized militia of the State  
9 is a covered employee in peace time, while the member is:

10 (1) training as part of the Maryland State Guard; or

11 (2) on active military duty in the organized militia under order of the  
12 Governor in time of:

13 (i) civil disorder;

14 (ii) labor disorder;

15 (iii) natural disaster; or

16 (iv) other events that require the support of the State Militia.

17 [(b)] (C) For the purposes of this title, the State is the employer of an  
18 individual who is a covered employee under this section.

19 9-232.

20 (a) [(1) Except as provided in paragraph (2) of this subsection, each] EACH  
21 regularly enrolled volunteer member or trainee of the Maryland Emergency  
22 Management Agency established under the Maryland Emergency Management  
23 Agency Act is a covered employee.

24 [(2) A volunteer member or trainee in Allegany, Carroll, Cecil, Charles,  
25 Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester  
26 County is not a covered employee.]

27 (b) For the purposes of this title, the State is the employer of each individual  
28 who is a covered employee under this section.

29 9-232.1.

30 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
31 INDICATED.

1           (2)   (I)    "CIVIL DEFENSE VOLUNTEER" MEANS AN INDIVIDUAL WHO IS  
2 PRECERTIFIED OR PREREGISTERED WITH A UNIT OF STATE GOVERNMENT TO  
3 PROVIDE SERVICES AT THE REQUEST OF THE STATE DURING AN EMERGENCY.

4           (II)   "CIVIL DEFENSE VOLUNTEER" INCLUDES A CREDENTIALLED OR  
5 REGISTERED MEMBER OF A PROFESSIONAL VOLUNTEER HEALTH CORPS  
6 ESTABLISHED BY A UNIT OF STATE GOVERNMENT.

7           (3)   (I)    "EMERGENCY" HAS THE MEANING STATED IN § 14-101(C) OF  
8 THE PUBLIC SAFETY ARTICLE.

9           (II)   "EMERGENCY" INCLUDES:

10                   1.    A CATASTROPHIC HEALTH EMERGENCY AS DEFINED IN §  
11 14-3A-01 OF THE PUBLIC SAFETY ARTICLE; AND

12                   2.    ANY EVENT FOR WHICH THE STATE PROVIDES  
13 VOLUNTEER SERVICES IN ACCORDANCE WITH:

14                   A.    THE PROVISIONS FOR A STATE OF EMERGENCY UNDER §  
15 14-107 OR § 14-108 OF THE PUBLIC SAFETY ARTICLE;

16                   B.    THE INTERSTATE EMERGENCY MANAGEMENT AND CIVIL  
17 DEFENSE COMPACT UNDER § 14-602 OF THE PUBLIC SAFETY ARTICLE; OR

18                   C.    THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT  
19 UNDER § 14-702 OF THE PUBLIC SAFETY ARTICLE.

20   (B)   (1)    SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CIVIL DEFENSE  
21 VOLUNTEER IS A COVERED EMPLOYEE IF THE INDIVIDUAL SUSTAINS AN INJURY IN  
22 THE COURSE OF PROVIDING SERVICES AT THE REQUEST OF THE STATE DURING AN  
23 EMERGENCY WHILE THE EMERGENCY MAY REASONABLY BE CONSIDERED TO BE IN  
24 EXISTENCE, OR DURING SCHEDULED EMERGENCY TRAINING.

25           (2)    A CIVIL DEFENSE VOLUNTEER IS NOT ENTITLED TO WORKERS'  
26 COMPENSATION BENEFITS UNDER THIS SECTION IF THE INDIVIDUAL IS OTHERWISE  
27 COVERED BY WORKERS' COMPENSATION INSURANCE FOR SERVICES PERFORMED AT  
28 THE REQUEST OF THE STATE DURING AN EMERGENCY OR SCHEDULED EMERGENCY  
29 TRAINING.

30           (3)    A CIVIL DEFENSE VOLUNTEER MUST FILE A CLAIM IN THIS STATE TO  
31 BE ELIGIBLE FOR BENEFITS UNDER THIS SECTION.

32           (4)    FOR THE PURPOSE OF COMPUTING THE AVERAGE WEEKLY WAGE OF  
33 A CIVIL DEFENSE VOLUNTEER WHO IS COVERED UNDER THIS SECTION, THE WAGES  
34 OF THE COVERED EMPLOYEE SHALL BE:

35                   (I)    FOR A COVERED EMPLOYEE WHO RECEIVED A SALARY OR  
36 WAGES FROM OTHER EMPLOYMENT AT THE TIME OF THE ACCIDENTAL PERSONAL

1 INJURY OR LAST INJURIOUS EXPOSURE, THE SALARY OR WAGES FROM THE OTHER  
2 EMPLOYMENT; OR

3 (II) FOR A COVERED EMPLOYEE WHO DID NOT RECEIVE A SALARY  
4 OR WAGES FROM OTHER EMPLOYMENT AT THE TIME OF THE ACCIDENTAL  
5 PERSONAL INJURY OR LAST INJURIOUS EXPOSURE:

6 1. IF THE COVERED EMPLOYEE DERIVED INCOME FROM A  
7 SOURCE OTHER THAN SALARY OR WAGES AT THE TIME OF THE ACCIDENTAL  
8 PERSONAL INJURY OR LAST INJURIOUS EXPOSURE, AN AMOUNT THAT ALLOWS THE  
9 MAXIMUM COMPENSATION UNDER THIS TITLE;

10 2. IF THE COVERED EMPLOYEE WAS NOT ENGAGED IN A  
11 BUSINESS ENTERPRISE AT THE TIME OF THE ACCIDENTAL PERSONAL INJURY OR  
12 LAST INJURIOUS EXPOSURE, THE WEEKLY INCOME LAST RECEIVED BY THE  
13 COVERED EMPLOYEE WHEN ENGAGED IN A BUSINESS ENTERPRISE; OR

14 3. IF THE COVERED EMPLOYEE HAD NEVER BEEN ENGAGED  
15 IN A BUSINESS ENTERPRISE AT THE TIME OF THE ACCIDENTAL PERSONAL INJURY  
16 OR LAST INJURIOUS EXPOSURE, AN AMOUNT THAT ALLOWS THE MINIMUM  
17 COMPENSATION UNDER THIS TITLE.

18 **Article - Public Safety**

19 14-101.

20 (c) "Emergency" means the threat or occurrence of:

21 (1) a hurricane, tornado, storm, flood, high water, wind-driven water,  
22 tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, and  
23 any other disaster in any part of the State that requires State assistance to  
24 supplement local efforts in order to save lives and protect public health and safety; or

25 (2) an enemy attack, act of terrorism, or public health catastrophe.

26 14-107.

27 (a) (1) If the Governor finds that an emergency has developed or is  
28 impending due to any cause, the Governor shall declare a state of emergency by  
29 executive order or proclamation.

30 (2) The state of emergency continues until the Governor:

31 (i) finds that the threat or danger has passed or the emergency has  
32 been dealt with to the extent that emergency conditions no longer exist; and

33 (ii) terminates the state of emergency by executive order or  
34 proclamation.

1 (3) A state of emergency may not continue for longer than 30 days unless  
2 the Governor renews the state of emergency.

3 (4) (i) The General Assembly by joint resolution may terminate a state  
4 of emergency at any time.

5 (ii) After the General Assembly terminates a state of emergency,  
6 the Governor shall issue an executive order or proclamation that terminates the state  
7 of emergency.

8 14-108.

9 (a) After a state of emergency is declared in another state and the Governor  
10 receives a written request for assistance from the executive authority of that state,  
11 the Governor may:

12 (1) authorize use in the other state of personnel, equipment, supplies, or  
13 materials of this State, or of a political subdivision with the consent of the executive  
14 officer or governing body of the political subdivision; and

15 (2) suspend the effect of any statute or rule or regulation of an agency of  
16 the State or, after consulting with the executive officer or governing body of a political  
17 subdivision, a rule or regulation of an agency of a political subdivision, if the Governor  
18 finds that the suspension is necessary to aid the other state with its emergency  
19 management functions.

20 14-3A-01.

21 (b) "Catastrophic health emergency" means a situation in which extensive loss  
22 of life or serious disability is threatened imminently because of exposure to a deadly  
23 agent.

24 (c) "Deadly agent" means:

25 (1) anthrax, ebola, plague, smallpox, tularemia, or other bacterial,  
26 fungal, rickettsial, or viral agent, biological toxin, or other biological agent capable of  
27 causing extensive loss of life or serious disability;

28 (2) mustard gas, nerve gas, or other chemical agent capable of causing  
29 extensive loss of life or serious disability; or

30 (3) radiation at levels capable of causing extensive loss of life or serious  
31 disability.

32 14-602.

33 The contracting states solemnly agree:

34 (1) Article 1. Purpose.

1 The purpose of this compact is to provide mutual aid among the states in  
2 meeting any emergency from enemy attack or other cause (natural or otherwise)  
3 including sabotage and subversive acts and direct attacks by bombs, shellfire, and  
4 atomic, radiological, chemical, bacteriological means, and other weapons. The prompt,  
5 full and effective utilization of the resources of the respective states, including such  
6 resources as may be available from the United States government or any other  
7 source, are essential to the safety, care and welfare of the people thereof in the event  
8 of enemy action or other emergency, and any other resources, including personnel,  
9 equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be  
10 developed among emergency management and civil defense agencies or similar bodies  
11 of the states that are parties hereto. The directors of emergency management and  
12 civil defense of all party states shall constitute a committee to formulate plans and  
13 take all necessary steps for the implementation of this compact.

14 (7) Article 7. Compensation and death benefits.

15 Each party state shall provide for the payment of compensation and death  
16 benefits to injured members of the emergency management and civil defense forces of  
17 that state and the representatives of deceased members of such forces in case such  
18 members sustain injuries or are killed while rendering aid pursuant to this compact,  
19 in the same manner and on the same terms as if the injury or death were sustained  
20 within such state.

21 14-702.

22 (1) Article I. Purpose and Authorities.

23 This compact is made and entered into by and between the participating  
24 member states which enact this compact, hereinafter called party states. For the  
25 purposes of this compact, the term "states" is taken to mean the several states, the  
26 Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial  
27 possessions.

28 The purpose of this compact is to provide for mutual assistance between the  
29 states entering into this compact in managing any emergency or disaster that is duly  
30 declared by the Governor of the affected state(s), whether arising from natural  
31 disaster, technological hazard, man-made disaster, civil emergency aspects of  
32 resources shortages, community disorders, insurgency, or enemy attack.

33 This compact shall also provide for mutual cooperation in emergency-related  
34 exercises, testing, or other training activities using equipment and personnel  
35 simulating performance of any aspect of the giving and receiving of aid by party  
36 states or subdivisions of party states during emergencies, such actions occurring  
37 outside actual declared emergency periods. Mutual assistance in this compact may  
38 include the use of the states' National Guard forces, either in accordance with the  
39 National Guard Mutual Assistance Compact or by mutual agreement between states.

40 (8) Article VIII. Compensation.

1 Each party state shall provide for the payment of compensation and death  
2 benefits to injured members of the emergency forces of that state and representatives  
3 of deceased members of such forces in case such members sustain injuries or are  
4 killed while rendering aid pursuant to this compact, in the same manner and on the  
5 same terms as if the injury or death were sustained within their own state.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2006.