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By: **Senator Kittleman**

Introduced and read first time: February 3, 2006

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation Commission - Stay of an Order Pending an Appeal**

3 FOR the purpose of authorizing the court to grant a stay of an order for certain  
4 accrued workers' compensation benefits under certain circumstances;  
5 authorizing the court to require certain types of collateral on a stay of a certain  
6 order; requiring that a certain order by the Workers' Compensation Commission  
7 must be stayed until the court has made a ruling on a certain appeal; and  
8 generally relating to a stay of an order of the Workers' Compensation  
9 Commission.

10 BY repealing and reenacting, without amendments,  
11 Article - Labor and Employment  
12 Section 9-631, 9-737, and 9-742  
13 Annotated Code of Maryland  
14 (1999 Replacement Volume and 2005 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article - Labor and Employment  
17 Section 9-741  
18 Annotated Code of Maryland  
19 (1999 Replacement Volume and 2005 Supplement)

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

22 **Article - Labor and Employment**

23 9-631.

24 Compensation for a permanent partial disability under this Part IV of this  
25 subtitle shall be paid in addition to and consecutively with compensation for a  
26 temporary total disability under Part III of this subtitle.

1 9-737.

2 An employer, covered employee, dependent of a covered employee, or any other  
3 interested person aggrieved by a decision of the Commission, including the  
4 Subsequent Injury Fund and the Uninsured Employers' Fund, may appeal from the  
5 decision of the Commission provided the appeal is filed within 30 days after the date  
6 of the mailing of the Commission's order by:

7 (1) filing a petition for judicial review in accordance with Title 7 of the  
8 Maryland Rules;

9 (2) attaching to or including in the petition a certificate of service  
10 verifying that on the date of the filing a copy of the petition has been sent by first  
11 class mail to the Commission and to each other party of record; and

12 (3) on the date of the filing, serving copies of the petition by first class  
13 mail on the Commission and each other party of record.

14 9-741.

15 (A) An appeal is not a stay of:

16 (1) an order of the Commission requiring payment of compensation; or

17 (2) an order or supplemental order of the Commission requiring the  
18 provision of medical treatment.

19 (B) (1) (I) ON A MOTION AND AFTER A HEARING, THE COURT IN WHICH  
20 AN APPEAL IS PENDING MAY GRANT A STAY OF AN ORDER OF THE COMMISSION  
21 REGARDING PAYMENT OF ACCRUED ADDITIONAL BENEFITS THAT WOULD  
22 OTHERWISE BE PAID IN ACCORDANCE WITH § 9-631 OF THIS TITLE.

23 (II) THE COURT MAY REQUIRE THE PARTY THAT BROUGHT THE  
24 MOTION FOR A STAY TO POST A BOND OR PROVIDE OTHER COLLATERAL THAT THE  
25 COURT CONSIDERS NECESSARY AS A CONDITION OF THE STAY.

26 (2) PENDING A MOTION ON A COMMISSION ORDER IN SUBSECTION (A)(1)  
27 OF THIS SECTION, A COMMISSION ORDER REGARDING PAYMENT OF ACCRUED  
28 BENEFITS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE STAYED  
29 UNTIL THE COURT RULES ON THE MOTION.

30 9-742.

31 (a) The Commission retains jurisdiction pending an appeal to consider:

32 (1) a request for additional medical treatment and attention; and

33 (2) a request for temporary total disability benefits, provided that the  
34 covered employee's temporary total disability benefits were granted in the order on  
35 appeal, and were terminated by the insurer or self-insurer pending adjudication or  
36 resolution of the appeal.

1 (b) (1) If the Commission finds that a covered employee needs additional  
2 medical attention pending an appeal, the Commission may pass a supplemental order  
3 requiring the employer to provide additional medical treatment and attention.

4 (2) If the Commission finds that a covered employee's temporary total  
5 disability benefits were terminated pending adjudication or resolution of the appeal,  
6 and that the employee was temporarily totally disabled at the time of termination,  
7 the Commission may pass a supplemental order requiring the employer to provide the  
8 employee with temporary total disability benefits.

9 (3) If the Commission's decision to reinstate temporary total disability  
10 benefits is reversed or modified on appeal, the insurer or self-insurer shall be entitled  
11 to an offset or credit for overpayment of the temporary total disability benefits  
12 granted in the supplemental order.

13 (c) A supplemental order passed by the Commission under this section is  
14 subject to review on the pending appeal.

15 (d) When an appeal that is pending relates solely to a penalty imposed by the  
16 Commission, the Commission retains jurisdiction over all matters in the case other  
17 than imposition of the penalty.

18 (e) This section may not be construed to prevent the Commission from  
19 ordering an offset or credit against an award for temporary total or permanent partial  
20 disability benefits for any temporary total disability benefits previously paid to a  
21 covered employee, as authorized under any other provision of this title.

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