

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 394
Finance

(Senator Astle)

Workers' Compensation - Accidental Personal Injury - Definition

This bill further defines “accidental personal injury” for purposes of workers’ compensation as an injury 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. 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. 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 his/her 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.

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 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: SB 490 of 2005, an identical bill, was heard by the Finance Committee but no further action was taken. HB 636 of 2005, an identical bill, received an unfavorable report from the Economic Matters Committee.

Cross File: HB 523 (Delegates Wood and Minnick) – Economic Matters.

Information Source(s): National Council on Compensation Insurance, Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Subsequent Injury Fund, Maryland Insurance Administration, Department of Legislative Services

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