

# SENATE BILL 712

K1

71r2458

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By: **Senator Kittleman**

Introduced and read first time: February 7, 2007

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Covered Employees - Benefits**

3 FOR the purpose of providing that undocumented employees are entitled to certain  
4 workers' compensation benefits only under certain circumstances; defining a  
5 certain term; and generally relating to eligibility to receive benefits under  
6 workers' compensation law.

7 BY repealing and reenacting, with amendments,  
8 Article - Labor and Employment  
9 Section 9-101 and 9-202  
10 Annotated Code of Maryland  
11 (1999 Replacement Volume and 2006 Supplement)

12 BY repealing and reenacting, without amendments,  
13 Article - Labor and Employment  
14 Section 9-660(a) and (b) and 9-661  
15 Annotated Code of Maryland  
16 (1999 Replacement Volume and 2006 Supplement)

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

19 **Article - Labor and Employment**

20 9-101.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this title the following words have the meanings indicated.

2 (b) “Accidental personal injury” means:

3 (1) an accidental injury that arises out of and in the course of  
4 employment;

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

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

10 (i) an occupational disease; and

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

12 (c) “Child” includes:

13 (1) an adopted child;

14 (2) an illegitimate child;

15 (3) a posthumous child; and

16 (4) a stepchild.

17 (d) “Commission” means the State Workers’ Compensation Commission.

18 (e) (1) “Compensation” means the money payable under this title to a  
19 covered employee or the dependents of a covered employee.

20 (2) “Compensation” includes funeral benefits payable under this title.

21 (f) “Covered employee” means an individual listed in Subtitle 2 of this title  
22 for whom a person, a governmental unit, or a quasi-public corporation is required by  
23 law to provide coverage under this title.

24 (g) “Occupational disease” means a disease contracted by a covered  
25 employee:

26 (1) as the result of and in the course of employment; and

1 (2) that causes the covered employee to become temporarily or  
2 permanently, partially or totally incapacitated.

3 (H) "UNDOCUMENTED EMPLOYEE" MEANS AN INDIVIDUAL WHO DOES  
4 NOT MEET THE REQUIREMENTS FOR LAWFUL EMPLOYMENT IN THE UNITED  
5 STATES UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.

6 9-202.

7 (a) Except as otherwise provided, an individual, including a minor, is a  
8 covered employee while in the service of an employer under an express or implied  
9 contract of apprenticeship or hire.

10 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF AN  
11 EMPLOYER DOES NOT ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE  
12 THAT THE EMPLOYER COMPLIED WITH FEDERAL LAW TO VERIFY LEGAL  
13 ELIGIBILITY FOR EMPLOYMENT FOR AN UNDOCUMENTED EMPLOYEE, THE  
14 UNDOCUMENTED EMPLOYEE IS ENTITLED TO ALL APPLICABLE BENEFITS  
15 UNDER THIS TITLE, EXCEPT FOR VOCATIONAL REHABILITATION BENEFITS  
16 UNDER §§ 9-670 THROUGH 9-675 OF THIS TITLE.

17 (2) AN UNDOCUMENTED EMPLOYEE IS ENTITLED ONLY TO  
18 MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE IF:

19 (I) THE UNDOCUMENTED EMPLOYEE PROVIDES FALSE OR  
20 FRAUDULENT DOCUMENTATION TO AN EMPLOYER BEFORE OR WITHIN A  
21 REASONABLE TIME AFTER THE UNDOCUMENTED EMPLOYEE IS HIRED; AND

22 (II) THE UNDOCUMENTED EMPLOYEE SUSTAINS AN  
23 ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL  
24 DISEASE.

25 [(b)] (C) A minor may be a covered employee under this section even if the  
26 minor is employed unlawfully.

27 9-660.

28 (a) In addition to the compensation provided under this subtitle, if a covered  
29 employee has suffered an accidental personal injury, compensable hernia, or

1 occupational disease the employer or its insurer promptly shall provide to the covered  
2 employee, as the Commission may require:

- 3 (1) medical, surgical, or other attendance or treatment;
- 4 (2) hospital and nursing services;
- 5 (3) medicine;
- 6 (4) crutches and other apparatus; and
- 7 (5) artificial arms, feet, hands, and legs and other prosthetic  
8 appliances.

9 (b) The employer or its insurer shall provide the medical services and  
10 treatment required under subsection (a) of this section for the period required by the  
11 nature of the accidental personal injury, compensable hernia, or occupational disease.

12 9-661.

13 (a) The employer or its insurer shall repair or replace an artificial eye, limb,  
14 tooth or other prosthetic appliance or eyeglasses damaged or destroyed because of an  
15 accident during the course of employment.

16 (b) If the employer or its insurer fails to make a repair or replacement  
17 required under subsection (a) of this section, the covered employee may make the  
18 repair or replacement at the expense of the employer or its insurer.

19 (c) If the employer or its insurer fails to make a repair or replacement  
20 required under subsection (a) of this section within 3 days after the damage or  
21 destruction occurs, the Commission may order the employer or its insurer to pay  
22 compensation to the covered employee for any lost time after the 3-day waiting period.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2007.