

## **CHAPTER 229**

**(House Bill 271)**

AN ACT concerning

### **Workers' Compensation – Unpaid Work–Based Learning Experiences – Coverage**

FOR the purpose of altering the definition of an unpaid work–based learning experience for the purpose of requiring workers' compensation coverage for students placed in unpaid work–based learning experiences by certain private noncollegiate institutions; requiring a participating employer to reimburse a private noncollegiate institution for the cost of the workers' compensation coverage; allowing the participating employer to satisfy a certain obligation if a private noncollegiate institution secures certain workers' compensation; authorizing the private noncollegiate institution that places the student to obtain workers' compensation insurance for the student; providing that certain children with a disability placed by a private noncollegiate institution in an unpaid work assignment are covered employees; altering an employer's options for securing workers' compensation for covered employees of the employer; defining a certain term; making certain stylistic changes; and generally relating to workers' compensation coverage for students placed by certain private noncollegiate institutions in unpaid work–based learning experiences.

BY repealing and reenacting, with amendments,

Article – Education

Section 7–114 and 8–402

Annotated Code of Maryland

(2006 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Education

Section 8–401(a)(1) and (2)

Annotated Code of Maryland

(2006 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 9–228(a) and (c) and 9–402(a)

Annotated Code of Maryland

(1999 Replacement Volume and 2006 Supplement)

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

**Article – Education**

7–114.

(a) (1) In this section[,], **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“PRIVATE NONCOLLEGIATE INSTITUTION” MEANS A SCHOOL OR OTHER INSTITUTION THAT IS NOT UNDER THE GENERAL CONTROL AND SUPERVISION OF A COUNTY BOARD OF EDUCATION.**

(3) [“unpaid”] **“UNPAID work–based learning experience”** means a program that provides a student with structured employer–supervised learning that:

[(1)] (I) Occurs in the workplace;

[(2)] (II) Links with classroom instruction;

[(3)] (III) Is coordinated by a county board **OR PRIVATE NONCOLLEGIATE INSTITUTION**; and

[(4)] (IV) Is conducted in accordance with the terms of an individual written work–based learning agreement between the county board of education **OR PRIVATE NONCOLLEGIATE INSTITUTION** placing a participating student and the employer of that participating student.

(b) A student who has been placed with an employer in an unpaid work–based learning experience coordinated by a county board **OR PRIVATE NONCOLLEGIATE INSTITUTION** is a covered employee of that employer, as defined in Title 9 of the Labor and Employment Article, for the purposes of coverage under the State workers’ compensation laws.

(c) (1) The participating employer where a student is placed in an unpaid work–based learning experience under this section shall secure workers’ compensation coverage for that student.

(2) The participating employer may satisfy its obligation to secure workers' compensation coverage under this subsection if the county board **OR PRIVATE NONCOLLEGIATE INSTITUTION** that places the student in the unpaid work-based learning experience chooses to secure workers' compensation coverage for that student.

(d) (1) The county board **OR PRIVATE NONCOLLEGIATE INSTITUTION** that places a student with an employer in an unpaid work-based learning experience under this section may secure workers' compensation coverage for that student.

(2) Subject to subsection (e) of this section, if a county board **OR PRIVATE NONCOLLEGIATE INSTITUTION** chooses to secure workers' compensation coverage under this subsection, the participating employer shall reimburse the county board **OR PRIVATE NONCOLLEGIATE INSTITUTION** in an amount equal to the lesser of:

(i) The cost of the premium for the workers' compensation insurance coverage; or

(ii) A fee of \$250.

(e) The Cecil County Board may waive the requirement for reimbursement under subsection (d)(2) of this section.

8-401.

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

(2) "Child with a disability" means a child who has been determined through appropriate assessment as having autism, deaf-blindness, hearing impairment, including deafness, emotional disturbance, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment, including blindness, and who because of that impairment needs special education and related services.

8-402.

(a) (1) A child with a disability who has been placed **BY A LOCAL SCHOOL SYSTEM OR PRIVATE NONCOLLEGIATE INSTITUTION** with an employer in an unpaid work assignment as part of an individualized education program is a

covered employee, as defined in Title 9 of the Labor and Employment Article, of the employer for the purposes of workers' compensation.

(2) A resident in a facility as defined under § 10–101(e) of the Health – General Article is not a covered employee, as defined in Title 9 of the Labor and Employment Article, of the employer for the purposes of workers' compensation.

(b) Compensation for injury or death to a child with a disability under this section shall be based on the federal minimum wage in effect at the time of the child's injury.

(c) A local school system **OR PRIVATE NONCOLLEGIATE INSTITUTION** that places a child with a disability with an employer in an unpaid work assignment pursuant to the child's individualized education program may secure workers' compensation coverage for that child.

### **Article – Labor and Employment**

9–228.

(a) (1) A [handicapped] student **WITH A DISABILITY AS DEFINED IN § 8–401(A)(2) OF THE EDUCATION ARTICLE** is a covered employee while working for an employer without wages in a work assignment in accordance with § 8–402 of the Education Article.

(2) For the purposes of this title, the employer for whom the [handicapped] student **WITH A DISABILITY** works is the employer of [the] **THAT** [handicapped] student.

(c) (1) A student is a covered employee when the student has been placed with an employer in an unpaid work–based learning experience coordinated by a county board **OR PRIVATE NONCOLLEGIATE INSTITUTION** under § 7–114 of the Education Article.

(2) For purposes of this title, the employer for whom the student works in the unpaid work–based learning experience is the employer of [the] **THAT** student.

9–402.

(a) Subject to subsections (b) through (f) of this section, each employer shall secure compensation for covered employees of the employer by:

- (1) maintaining insurance with the Injured Workers' Insurance Fund;
- (2) maintaining insurance with an authorized insurer;
- (3) participating in a governmental self-insurance group that meets the requirements of § 9–404 of this subtitle;
- (4) participating in a self-insurance group of private employers that meets the requirements of Title 25, Subtitle 3 of the Insurance Article;
- (5) maintaining self-insurance for an individual employer in accordance with § 9–405 of this subtitle; or
- (6) having a county board of education **OR PRIVATE NONCOLLEGIATE INSTITUTION** secure compensation under § 8–402(c) or § 7–114(d) of the Education Article.

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

**Approved by the Governor, April 24, 2007.**