

HOUSE BILL 1280

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CF SB 646

By: **Delegates Feldman, Barkley, Braveboy, Harrison, Hecht, King, Kirk, Love, Manno, Mathias, McHale, Minnick, Taylor, and Vaughn**

Introduced and read first time: February 18, 2010

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2010

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation – Medical Presumptions**

3 FOR the purpose of altering the occupational disease presumption under the workers'
4 compensation law as applied to certain firefighters, certain fire fighting
5 instructors, certain rescue squad members, certain advanced life support unit
6 members, and certain sworn members of the Office of the State Fire Marshal;
7 providing that certain diseases and cancers are considered occupational
8 diseases suffered in the line of duty and are compensable in a certain manner;
9 providing that a certain presumption applies only if certain circumstances are
10 met; providing for the construction and application for this Act; and generally
11 relating to the occupational disease presumption for certain diseases and
12 cancers under the workers' compensation law.

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 9–503
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2009 Supplement)

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

20 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 9–503.

2 (a) ~~▲~~ **THERE IS A REBUTTABLE PRESUMPTION THAT A** paid firefighter,
3 paid fire fighting instructor, or sworn member of the Office of the State Fire Marshal
4 employed by an airport authority, a county, a fire control district, a municipality, or
5 the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue
6 squad member, or volunteer advanced life support unit member who is a covered
7 employee under § 9–234 of this title ~~is presumed to have~~ **HAS** an occupational disease
8 that was suffered in the line of duty and is compensable under this title if:

9 (1) the individual has heart disease, hypertension, or lung disease;

10 (2) the heart disease, hypertension, or lung disease results in partial
11 or total disability or death; and

12 (3) in the case of a volunteer firefighter, volunteer fire fighting
13 instructor, volunteer rescue squad member, or volunteer advanced life support unit
14 member, the individual has met a suitable standard of physical examination before
15 becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life
16 support unit member.

17 (b) (1) A paid police officer employed by an airport authority, a county,
18 the Maryland–National Capital Park and Planning Commission, a municipality, or the
19 State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this
20 subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer,
21 Prince George’s County deputy sheriff, or Prince George’s County correctional officer is
22 presumed to be suffering from an occupational disease that was suffered in the line of
23 duty and is compensable under this title if:

24 (i) the police officer, deputy sheriff, or correctional officer is
25 suffering from heart disease or hypertension; and

26 (ii) the heart disease or hypertension results in partial or total
27 disability or death.

28 (2) (i) A deputy sheriff of Baltimore City, Montgomery County
29 correctional officer, Prince George’s County deputy sheriff, or Prince George’s County
30 correctional officer is entitled to the presumption under this subsection only to the
31 extent that the individual suffers from heart disease or hypertension that is more
32 severe than the individual’s heart disease or hypertension condition existing prior to
33 the individual’s employment as a deputy sheriff of Baltimore City, Montgomery
34 County correctional officer, Prince George’s County deputy sheriff, or Prince George’s
35 County correctional officer.

36 (ii) To be eligible for the presumption under this subsection, a
37 deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
38 George’s County deputy sheriff, or Prince George’s County correctional officer, as a

1 condition of employment, shall submit to a medical examination to determine any
 2 heart disease or hypertension condition existing prior to the individual's employment
 3 as a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
 4 George's County deputy sheriff, or Prince George's County correctional officer.

5 (c) A paid firefighter, paid fire fighting instructor, or a sworn member of the
 6 Office of the State Fire Marshal employed by an airport authority, a county, a fire
 7 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
 8 fighting instructor, volunteer rescue squad member, or volunteer advanced life
 9 support unit member who is a covered employee under § 9-234 of this title is
 10 presumed to be suffering from an occupational disease that was suffered in the line of
 11 duty and is compensable under this title if the individual:

12 (1) has leukemia, ~~MULTIPLE MYELOMA, MELANOMA,~~ or pancreatic,
 13 prostate, rectal, [or] throat, ~~ESOPHAGEAL, LYMPHATIC, TESTICULAR, BRAIN,~~
 14 ~~LUNG, BLADDER, KIDNEY, BREAST, LIVER, OVARIAN, CERVICAL, OR URETHRAL~~
 15 ~~BRAIN, OR LUNG~~ cancer, ~~OR CANCER LOCATED IN THE DIGESTIVE SYSTEM~~ that is
 16 caused by contact with a toxic substance that the individual has encountered in the
 17 line of duty;

18 (2) has completed at least 5 years of service as a firefighter, fire
 19 fighting instructor, rescue squad member, or advanced life support unit member or in
 20 a combination of those jobs in the department where the individual currently is
 21 employed or serves;

22 (3) is unable to perform the normal duties of a firefighter, fire fighting
 23 instructor, rescue squad member, or advanced life support unit member in the
 24 department where the individual currently is employed or serves because of the cancer
 25 or leukemia disability; and

26 (4) in the case of a volunteer firefighter, volunteer fire fighting
 27 instructor, volunteer rescue squad member, or volunteer advanced life support unit
 28 member, has met a suitable standard of physical examination before becoming a
 29 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
 30 member.

31 ~~(D) A PAID OR VOLUNTEER FIREFIGHTER OR FIRE FIGHTING~~
 32 ~~INSTRUCTOR, A VOLUNTEER RESCUE SQUAD MEMBER, AN ADVANCED LIFE~~
 33 ~~SUPPORT UNIT MEMBER, OR A SWORN MEMBER OF THE OFFICE OF THE STATE~~
 34 ~~FIRE MARSHAL EMPLOYED BY AN AIRPORT AUTHORITY, A COUNTY, A FIRE~~
 35 ~~CONTROL DISTRICT, A MUNICIPALITY, OR THE STATE WHO IS A COVERED~~
 36 ~~EMPLOYEE UNDER § 9-234 OF THIS TITLE IS PRESUMED TO HAVE AN~~
 37 ~~OCCUPATIONAL DISEASE SUFFERED IN THE LINE OF DUTY AND IS~~
 38 ~~COMPENSABLE UNDER THIS TITLE IF THE INDIVIDUAL:~~

1 2. was not suffering from Lyme disease before
2 assignment to a position that regularly places the employee in an outdoor wooded
3 environment.

4 (ii) The presumption under this paragraph shall apply only if:

5 1. for the 12-month period before the filing of the claim
6 for workers' compensation under this section, the employee:

7 A. has not been employed by the Maryland-National
8 Capital Park and Planning Commission as a seasonal or intermittent employee; and

9 B. has been employed by the Maryland-National Capital
10 Park and Planning Commission on a full-time basis;

11 2. the employee's assignment to a position that regularly
12 places the employee in an outdoor wooded environment lasted for at least 1 year; and

13 3. the employee files the claim for workers'
14 compensation on or before the third anniversary of the last date that the employee was
15 assigned to a position that regularly placed the employee in an outdoor wooded
16 environment.

17 ~~[(e)]~~ ~~(E)~~ (1) Except as provided in paragraph (2) of this subsection, any
18 paid firefighter, paid fire fighting instructor, sworn member of the Office of the State
19 Fire Marshal, paid police officer, paid law enforcement employee of the Department of
20 Natural Resources, a park police officer or employee of the Maryland-National Capital
21 Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff
22 of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince
23 George's County, or Prince George's County correctional officer who is eligible for
24 benefits under subsection (a), (b), (c), or ~~[(d)]~~ **(E)** of this section or the dependents of
25 those individuals shall receive the benefits in addition to any benefits that the
26 individual or the dependents of the individual are entitled to receive under the
27 retirement system in which the individual was a participant at the time of the claim.

28 (2) The benefits received under this title shall be adjusted so that the
29 weekly total of those benefits and retirement benefits does not exceed the weekly
30 salary that was paid to the paid law enforcement employee of the Department of
31 Natural Resources, a park police officer or employee of the Maryland-National Capital
32 Park and Planning Commission, firefighter, fire fighting instructor, sworn member of
33 the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's
34 County or Montgomery County correctional officer.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
36 construed to carry out the intent of the Maryland General Assembly that workers'

1 compensation presumptions related to occupational diseases and cancers be considered
2 rebuttable.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
4 construed to apply only prospectively and may not be applied or interpreted to have
5 any effect on or application to any workers' compensation claim filed before the
6 effective date of this Act.

7 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.