

SENATE BILL 608

K1
SB 520/09 – FIN

0lr2746

By: **Senator Kittleman**

Introduced and read first time: February 5, 2010

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Temporary Total Disability – Incarcerated**
3 **Employees**

4 FOR the purpose of providing that an employer or insurer is not liable for certain
5 temporary total disability payments to a covered employee while the employee
6 is incarcerated; providing for a certain exception; providing for the application
7 of this Act; and generally relating to workers' compensation benefits for covered
8 employees who are incarcerated.

9 BY repealing and reenacting, without amendments,
10 Article – Labor and Employment
11 Section 9–221, 9–607, and 9–618
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2009 Supplement)

14 BY adding to
15 Article – Labor and Employment
16 Section 9–618.1
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2009 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Labor and Employment
21 Section 9–621
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2009 Supplement)

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

26 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9–221.

2 (a) A prisoner is a covered employee while the prisoner is:

3 (1) working for a board of county commissioners, a county council, or a
4 county roads board if:

5 (i) the county pays the prisoner a wage or stipulated sum; and

6 (ii) the prisoner sustains permanent partial or permanent total
7 disability or dies, as a result of an accidental personal injury; or

8 (2) engaged in work while under the supervision of Maryland
9 Correctional Enterprises in the Federal Prison Industry Enhancement Program as
10 provided in § 10–308(d) of the Correctional Services Article.

11 (b) In Allegany, Anne Arundel, Charles, Montgomery, Washington, and
12 Wicomico counties, payment of a stipend or other money into an account that a
13 correctional institution administers for a prisoner does not constitute payment of a
14 wage or stipulated sum under subsection (a)(1)(i) of this section.

15 9–607.

16 (a) The Commission may not award compensation to a prisoner who is a
17 covered employee under § 9–221 of this title until the prisoner is discharged by
18 pardon, parole, or expiration of sentence.

19 (b) If a prisoner dies from an accidental personal injury, the dependents of
20 the prisoner are entitled to compensation under this title, based on the average weekly
21 wage of the prisoner.

22 9–618.

23 A covered employee who is temporarily totally disabled due to an accidental
24 personal injury or an occupational disease shall be paid compensation in accordance
25 with this Part III of this subtitle.

26 **9–618.1.**

27 **(A) AN EMPLOYER OR INSURER IS NOT LIABLE TO PAY COMPENSATION**
28 **TO A COVERED EMPLOYEE AS REQUIRED UNDER THIS PART III OF THIS**
29 **SUBTITLE WHILE THE COVERED EMPLOYEE IS INCARCERATED, UNLESS THE**
30 **EMPLOYEE PARTICIPATES IN A WORK RELEASE PROGRAM.**

1 **(B) AN EMPLOYER OR INSURER SHALL RESUME PAYMENT OF**
2 **COMPENSATION ON THE DATE THAT THE COVERED EMPLOYEE IS DISCHARGED**
3 **BY PARDON, PAROLE, OR EXPIRATION OF SENTENCE IF THE EMPLOYEE IS STILL**
4 **ENTITLED TEMPORARILY TO RECEIVE TOTAL BENEFITS.**

5 9-621.

6 (a) (1) Except as provided in paragraph (2) of this subsection, if a covered
7 employee is temporarily totally disabled due to an accidental personal injury or an
8 occupational disease, the employer or its insurer shall pay the covered employee
9 compensation that equals two-thirds of the average weekly wage of the covered
10 employee, but:

11 (i) does not exceed the average weekly wage of the State; and

12 (ii) is not less than \$50.

13 (2) If the average weekly wage of the covered employee is less than
14 \$50 at the time of the accidental personal injury or the last injurious exposure to the
15 hazards of the occupational disease, the employer or its insurer shall pay the covered
16 employee compensation that equals the average weekly wage of the covered employee.

17 (b) **[The] EXCEPT AS PROVIDED IN § 9-618.1 OF THIS SUBTITLE, THE**
18 **employer or its insurer shall pay the compensation for the period that the covered**
19 **employee is temporarily totally disabled.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
21 construed to apply only prospectively and may not be applied or interpreted to have
22 any effect on or application to any claims filed for temporary total disability before the
23 effective date of this Act.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2010.