

SENATE BILL 949

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CF HB 1101

By: **The President (By Request – Administration) and Senators Garagiola,
Glassman, Klausmeier, Muse, and Pugh**

Introduced and read first time: February 13, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Medical Presumptions**

3 FOR the purpose of providing that certain occupational disease presumptions under
4 the workers' compensation law apply only for a certain number of years after an
5 individual separates from service; providing that certain diseases and cancers
6 are considered occupational diseases suffered in the line of duty and are
7 compensable in a certain manner; limiting a jurisdiction's total benefit payout
8 for certain workers' compensation benefits to a certain amount; and generally
9 relating to the occupational disease presumption for certain diseases and
10 cancers under the workers' compensation law.

11 BY repealing and reenacting, with amendments,
12 Article – Labor and Employment
13 Section 9–503
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2011 Supplement)

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

18 **Article – Labor and Employment**

19 9–503.

20 (a) **(1)** A paid firefighter, paid fire fighting instructor, or sworn member of
21 the Office of the State Fire Marshal employed by an airport authority, a county, a fire
22 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
23 fighting instructor, volunteer rescue squad member, or volunteer advanced life
24 support unit member who is a covered employee under § 9–234 of this title is

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 presumed to have an occupational disease that was suffered in the line of duty and is
2 compensable under this title if:

3 [(1)] (I) the individual has heart disease, hypertension, or lung
4 disease;

5 [(2)] (II) the heart disease, hypertension, or lung disease results in
6 partial or total disability or death; and

7 [(3)] (III) in the case of a volunteer firefighter, volunteer fire fighting
8 instructor, volunteer rescue squad member, or volunteer advanced life support unit
9 member, the individual has met a suitable standard of physical examination before
10 becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life
11 support unit member.

12 **(2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS**
13 **SUBSECTION SHALL APPLY ONLY FOR 15 YEARS AFTER THE DATE THAT THE**
14 **INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.**

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

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

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

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

36 (ii) To be eligible for the presumption under this subsection, a
37 deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City,

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

7 (c) (1) A paid firefighter, paid fire fighting instructor, or a sworn member
8 of the Office of the State Fire Marshal employed by an airport authority, a county, a
9 fire control district, a municipality, or the State or a volunteer firefighter, volunteer
10 fire fighting instructor, volunteer rescue squad member, or volunteer advanced life
11 support unit member who is a covered employee under § 9-234 of this title is
12 presumed to be suffering from an occupational disease that was suffered in the line of
13 duty and is compensable under this title if the individual:

14 [(1)] (I) has leukemia or pancreatic, prostate, rectal, [or] throat,
15 ESOPHAGEAL, BRAIN, TESTICULAR, BLADDER, BREAST, URETHRAL, OR
16 DIGESTIVE cancer that is caused by contact with a toxic substance that the individual
17 has encountered in the line of duty;

18 [(2)] (II) has completed at least [5] 10 years of service as a
19 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
20 member or in a combination of those jobs in the department where the individual
21 currently is employed or serves;

22 [(3)] (III) is unable to perform the normal duties of a firefighter, fire
23 fighting 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)] (IV) 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 (2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION SHALL APPLY ONLY FOR 20 YEARS AFTER THE DATE THAT THE
33 INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.

34 (3) ON AN ANNUAL BASIS, A JURISDICTION'S TOTAL BENEFIT
35 PAYOUT UNDER THIS SUBSECTION FOR TEMPORARY TOTAL DISABILITY
36 BENEFITS, TEMPORARY PARTIAL DISABILITY BENEFITS, PERMANENT PARTIAL
37 DISABILITY BENEFITS, PERMANENT TOTAL DISABILITY BENEFITS, AND
38 DEPENDENCY BENEFITS MAY NOT EXCEED 110% OF THE JURISDICTION'S
39 HIGHEST ANNUAL PAYOUT FOR SUCH BENEFITS.

1 (d) (1) (i) A paid law enforcement employee of the Department of
2 Natural Resources who is a covered employee under § 9–207 of this title and a park
3 police officer of the Maryland–National Capital Park and Planning Commission is
4 presumed to have an occupational disease that was suffered in the line of duty and is
5 compensable under this title if the employee:

6 1. is suffering from Lyme disease; and

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

10 (ii) The presumption under this subsection for a park police
11 officer of the Maryland–National Capital Park and Planning Commission shall only
12 apply:

13 1. during the time that the park police officer is assigned
14 to a position that regularly places the park police officer in an outdoor wooded
15 environment; and

16 2. for 3 years after the last date that the park police
17 officer was assigned by the Maryland–National Capital Park and Planning
18 Commission to a position that regularly placed the officer in an outdoor wooded
19 environment.

20 (2) (i) An employee of the Maryland–National Capital Park and
21 Planning Commission other than a park police officer is presumed to have an
22 occupational disease that was suffered in the line of duty and is compensable under
23 this title if the employee:

24 1. is suffering from Lyme disease; and

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

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

29 1. for the 12–month period before the filing of the claim
30 for workers’ compensation under this section, the employee:

31 A. has not been employed by the Maryland–National
32 Capital Park and Planning Commission as a seasonal or intermittent employee; and

33 B. has been employed by the Maryland–National Capital
34 Park and Planning Commission on a full–time basis;

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

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

7 (e) (1) Except as provided in paragraph (2) of this subsection, any paid
8 firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire
9 Marshal, paid police officer, paid law enforcement employee of the Department of
10 Natural Resources, deputy sheriff of Anne Arundel County, park police officer or
11 employee of the Maryland–National Capital Park and Planning Commission, deputy
12 sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County
13 correctional officer, deputy sheriff of Prince George's County, or Prince George's
14 County correctional officer who is eligible for benefits under subsection (a), (b), (c), or
15 (d) of this section or the dependents of those individuals shall receive the benefits in
16 addition to any benefits that the individual or the dependents of the individual are
17 entitled to receive under the retirement system in which the individual was a
18 participant at the time of the claim.

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2012.