

HOUSE BILL 1455

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By: **Delegate Arentz**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Average Weekly Wage – Multiple Employers**

3 FOR the purpose of requiring that the average weekly wages from employments of a
4 covered employee who, at the time of an accidental personal injury, was concurrently
5 employed by more than one employer be combined for purposes of computing the
6 average weekly wages under certain circumstances; requiring that the Subsequent
7 Injury Fund or the Uninsured Employers' Fund reimburse an employer for certain
8 compensation paid by the employer under certain circumstances; requiring average
9 weekly wage for certain covered employees be recalculated under this Act; and
10 generally relating to the computation of the average weekly wage of a covered
11 employee.

12 BY adding to

13 Article – Labor and Employment

14 Section 9–602(a–1)

15 Annotated Code of Maryland

16 (2016 Replacement Volume and 2024 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Labor and Employment

19 Section 9–602(b), (c), (g), and (j), 9–615, and 9–621

20 Annotated Code of Maryland

21 (2016 Replacement Volume and 2024 Supplement)

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

24 **Article – Labor and Employment**

25 9–602.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A-1) (1) THIS SUBSECTION APPLIES ONLY TO A COVERED EMPLOYEE WHO:**

2 **(I) HAS SUFFERED:**

3 1. **A TEMPORARY PARTIAL DISABILITY UNDER § 9-615**
4 **OF THIS SUBTITLE; OR**

5 2. **A TEMPORARY TOTAL DISABILITY UNDER § 9-621 OF**
6 **THIS SUBTITLE;**

7 **(II) WAS CONCURRENTLY EMPLOYED BY MORE THAN ONE**
8 **EMPLOYER AT THE TIME OF THE ACCIDENTAL PERSONAL INJURY; AND**

9 **(III) AS A RESULT OF THE ACCIDENTAL PERSONAL INJURY, IS**
10 **UNABLE TO WORK AT ANY EMPLOYMENT THE COVERED EMPLOYEE WAS ENGAGED IN**
11 **AT THE TIME OF THE ACCIDENTAL PERSONAL INJURY OR ANY SIMILAR TYPE OF**
12 **EMPLOYMENT.**

13 **(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE WEEKLY**
14 **WAGES FROM THE EMPLOYMENTS THE COVERED EMPLOYEE WAS ENGAGED IN AT**
15 **THE TIME OF THE ACCIDENTAL PERSONAL INJURY SHALL BE COMBINED FOR**
16 **PURPOSES OF COMPUTING THE AVERAGE WEEKLY WAGE OF THE COVERED**
17 **EMPLOYEE.**

18 **(3) THIS SUBSECTION MAY NOT BE INTERPRETED TO:**

19 **(I) EXCEPT AS OTHERWISE PROVIDED UNDER THIS TITLE,**
20 **RELIEVE THE EMPLOYER IN WHOSE EMPLOYMENT THE ACCIDENTAL PERSONAL**
21 **INJURY OCCURRED FROM LIABILITY TO PAY COMPENSATION; OR**

22 **(II) CREATE LIABILITY TO PAY COMPENSATION ON THE PART OF**
23 **ANOTHER EMPLOYER IN WHOSE EMPLOYMENT THE ACCIDENTAL PERSONAL INJURY**
24 **DID NOT OCCUR.**

25 **(b) (1) THIS SUBSECTION APPLIES TO A COVERED EMPLOYEE ONLY IF**
26 **THE APPLICATION OF SUBSECTION (A-1) OF THIS SECTION RESULTS IN A LOWER**
27 **AVERAGE WEEKLY WAGE FOR THE COVERED EMPLOYEE.**

28 **(2) For the purpose of computing the average weekly wage of an auxiliary**
29 **police officer of Baltimore County who is a covered employee under § 9-220(a) of this title**
30 **or a member of a volunteer ambulance, ambulance and rescue, or fire company in Baltimore**
31 **County who is a covered employee under § 9-234 of this title, the wages of the covered**
32 **employee shall be:**

1 [(1)] (I) if the covered employee had other employment at the time of the
2 accidental personal injury or last injurious exposure, the salary or wages from the other
3 employment;

4 [(2)] (II) if the covered employee had had other employment but was not
5 otherwise employed at the time of the accidental personal injury or last injurious exposure,
6 the salary or wages last received by the covered employee from the other employment; or

7 [(3)] (III) if the covered employee had never had other employment at the
8 time of the accidental personal injury or last injurious exposure, an amount that allows
9 minimum death or disability benefits under this title.

10 (c) (1) **THIS SUBSECTION APPLIES TO A COVERED EMPLOYEE ONLY IF**
11 **THE APPLICATION OF SUBSECTION (A-1) OF THIS SECTION RESULTS IN A LOWER**
12 **AVERAGE WEEKLY WAGE FOR THE COVERED EMPLOYEE.**

13 (2) For the purpose of computing the average weekly wage of an individual
14 engaged for fire fighting by the Department of Natural Resources who is a covered employee
15 under § 9-207 of this title, the wages of the covered employee shall be:

16 [(1)] (I) the greater of:

17 [(i)] 1. any salary or wages received by the covered employee for
18 fire fighting; or

19 [(ii)] 2. any salary or wages earned by the covered employee in
20 other employment at the time of the accidental personal injury or last injurious exposure;
21 or

22 [(2)] (II) if the covered employee did not receive wages for fire fighting or
23 from other employment at the time of the accidental personal injury or last injurious
24 exposure, an amount that allows the minimum compensation or death benefits under this
25 title.

26 (g) (1) **THIS SUBSECTION APPLIES TO A COVERED EMPLOYEE ONLY IF**
27 **THE APPLICATION OF SUBSECTION (A-1) OF THIS SECTION RESULTS IN A LOWER**
28 **AVERAGE WEEKLY WAGE FOR THE COVERED EMPLOYEE.**

29 [(1)] (2) Subject to paragraph [(2)] (3) of this subsection, for the purpose
30 of computing the average weekly wage of an individual who is a covered employee under §
31 9-234 of this title, the wages of the covered employee shall be:

32 (i) for a covered employee who received a salary or wages from other
33 employment at the time of the accidental personal injury or last injurious exposure, the
34 salary or wages from the other employment; or

1 (ii) for a covered employee who did not receive a salary or wages from
2 other employment at the time of the accidental personal injury or last injurious exposure:

3 1. if the covered employee derived income from a source other
4 than salary or wages at the time of the accidental personal injury or last injurious exposure,
5 an amount that allows the maximum compensation under this title;

6 2. if the covered employee was not engaged in a business
7 enterprise at the time of the accidental personal injury or last injurious exposure, the
8 weekly income last received by the covered employee when engaged in a business
9 enterprise; or

10 3. if the covered employee had never been engaged in a
11 business enterprise at the time of the accidental personal injury or last injurious exposure,
12 an amount that allows the minimum compensation under this title.

13 ~~[(2)]~~ **(3)** A yearly stipend of \$5,200 or less to help offset out-of-pocket
14 expenses that a volunteer company, as defined in § 9-234 of this title, pays to a member
15 may not be used when determining the average weekly wage of the member.

16 (j) **(1) THIS SUBSECTION APPLIES TO A COVERED EMPLOYEE ONLY IF**
17 **THE APPLICATION OF SUBSECTION (A-1) OF THIS SECTION RESULTS IN A LOWER**
18 **AVERAGE WEEKLY WAGE FOR THE COVERED EMPLOYEE.**

19 **(2)** For the purpose of computing the average weekly wage of a volunteer
20 deputy sheriff of Cecil County or an auxiliary volunteer of the Charles County Sheriff's
21 Office who is a covered employee under § 9-233 of this title, the wages of the covered
22 employee shall be:

23 ~~[(1)]~~ **(I)** if the covered employee had other employment at the time of the
24 accidental personal injury or last injurious exposure, the wages from the other employment;

25 ~~[(2)]~~ **(II)** if the covered employee had had other employment but was not
26 otherwise employed at the time of the accidental personal injury or last injurious exposure,
27 the wages last received by the covered employee from the other employment; or

28 ~~[(3)]~~ **(III)** if the covered employee had never had other employment at the
29 time of the accidental personal injury or last injurious exposure, an amount that allows
30 minimum compensation under this title.

31 9-615.

32 (a) (1) Subject to paragraph (2) of this subsection, if the wage earning capacity
33 of a covered employee is less while temporarily partially disabled, the employer or its
34 insurer shall pay the covered employee compensation that equals 50% of the difference
35 between:

1 (i) the average weekly wage of the covered employee; and

2 (ii) the wage earning capacity of the covered employee in the same
3 or other employment while temporarily partially disabled.

4 (2) The compensation payable under paragraph (1) of this subsection may
5 not exceed 50% of the State average weekly wage.

6 (b) The employer or its insurer shall pay the weekly compensation for the period
7 that the covered employee is temporarily partially disabled.

8 **(C) (1) THIS SUBSECTION APPLIES TO THE PAYMENT OF WEEKLY**
9 **COMPENSATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION ONLY IF THE**
10 **AVERAGE WEEKLY WAGE OF THE COVERED EMPLOYEE IS COMPUTED UNDER §**
11 **9-602(A-1) OF THIS SUBTITLE.**

12 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
13 **EMPLOYER IN WHOSE EMPLOYMENT THE ACCIDENTAL PERSONAL INJURY**
14 **OCCURRED OR THE EMPLOYER'S INSURER SHALL PAY THE COVERED EMPLOYEE**
15 **WEEKLY COMPENSATION.**

16 **(3) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS**
17 **PARAGRAPH, THE SUBSEQUENT INJURY FUND OR THE UNINSURED EMPLOYERS'**
18 **FUND SHALL REIMBURSE THE EMPLOYER OR THE EMPLOYER'S INSURER FOR THE**
19 **AMOUNT OF WEEKLY COMPENSATION PAID UNDER PARAGRAPH (2) OF THIS**
20 **SUBSECTION THAT IS BASED ON THE WEEKLY WAGES OF THE COVERED EMPLOYEE**
21 **AT OTHER EMPLOYMENT.**

22 **(II) THE FUND WITH THE HIGHER BALANCE AT THE BEGINNING**
23 **OF THE FISCAL YEAR IN WHICH THE REIMBURSEMENT REQUIRED UNDER**
24 **SUBPARAGRAPH (I) OF THIS PARAGRAPH IS TO BE MADE SHALL REIMBURSE THE**
25 **EMPLOYER OR THE EMPLOYER'S INSURER UNDER SUBPARAGRAPH (I) OF THIS**
26 **PARAGRAPH.**

27 **(III) THE OBLIGATION OF THE SUBSEQUENT INJURY FUND OR**
28 **THE UNINSURED EMPLOYERS' FUND TO REIMBURSE AN EMPLOYER OR THE**
29 **EMPLOYER'S INSURER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS SUBJECT**
30 **TO A RIGHT OF THE SUBSEQUENT INJURY FUND TO BE IMPLEADED OR A RIGHT OF**
31 **THE SUBSEQUENT INJURY FUND OR THE UNINSURED EMPLOYERS' FUND TO**
32 **DEFEND IN A CASE INVOLVING PAYMENT FROM THE SUBSEQUENT INJURY FUND OR**
33 **THE UNINSURED EMPLOYERS' FUND AS ALLOWABLE UNDER SUBTITLE 8 OR 10 OF**
34 **THIS TITLE, RESPECTIVELY.**

1 9-621.

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

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

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

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

13 (b) The employer or its insurer shall pay the compensation for the period that the
14 covered employee is temporarily totally disabled.

15 **(C) (1) THIS SUBSECTION APPLIES TO THE PAYMENT OF WEEKLY**
16 **COMPENSATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION ONLY IF THE**
17 **AVERAGE WEEKLY WAGE OF THE COVERED EMPLOYEE IS COMPUTED UNDER §**
18 **9-602(A-1) OF THIS SUBTITLE.**

19 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
20 **EMPLOYER IN WHOSE EMPLOYMENT THE ACCIDENTAL PERSONAL INJURY**
21 **OCCURRED OR THE EMPLOYER'S INSURER SHALL PAY THE COVERED EMPLOYEE**
22 **WEEKLY COMPENSATION.**

23 **(3) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS**
24 **PARAGRAPH, THE SUBSEQUENT INJURY FUND OR THE UNINSURED EMPLOYERS'**
25 **FUND SHALL REIMBURSE THE EMPLOYER OR THE EMPLOYER'S INSURER FOR THE**
26 **AMOUNT OF WEEKLY COMPENSATION PAID UNDER PARAGRAPH (2) OF THIS**
27 **SUBSECTION THAT IS BASED ON THE WEEKLY WAGES OF THE COVERED EMPLOYEE**
28 **AT OTHER EMPLOYMENT.**

29 **(II) THE FUND WITH THE HIGHER BALANCE AT THE BEGINNING**
30 **OF THE FISCAL YEAR IN WHICH THE REIMBURSEMENT REQUIRED UNDER**
31 **SUBPARAGRAPH (I) OF THIS PARAGRAPH IS TO BE MADE SHALL REIMBURSE THE**
32 **EMPLOYER OR THE EMPLOYER'S INSURER UNDER SUBPARAGRAPH (I) OF THIS**
33 **PARAGRAPH.**

34 **(III) THE OBLIGATION OF THE SUBSEQUENT INJURY FUND OR**
35 **THE UNINSURED EMPLOYERS' FUND TO REIMBURSE AN EMPLOYER OR THE**

1 EMPLOYER'S INSURER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS SUBJECT
2 TO A RIGHT OF THE SUBSEQUENT INJURY FUND TO BE IMPEADED OR A RIGHT OF
3 THE SUBSEQUENT INJURY FUND OR THE UNINSURED EMPLOYERS' FUND TO
4 DEFEND IN A CASE INVOLVING PAYMENT FROM THE SUBSEQUENT INJURY FUND OR
5 THE UNINSURED EMPLOYERS' FUND AS ALLOWABLE UNDER SUBTITLE 8 OR 10 OF
6 THIS TITLE, RESPECTIVELY.

7 SECTION 2. AND BE IT FURTHER ENACTED, That:

8 (a) Section 9-602 of the Labor and Employment Article, as enacted by Section 1
9 of this Act, shall be construed to apply retroactively to all active workers' compensation
10 claims awarded to covered employees to whom § 9-602(a-1) of the Labor and Employment
11 Article, as enacted by Section 1 of this Act, applies for temporary partial disability or
12 temporary total disability and for which benefits are being paid as of the effective date of
13 this Act.

14 (b) The Workers' Compensation Commission shall recalculate the average weekly
15 wage of a covered employee for a claim described under subsection (a) of this section in
16 accordance with the method required under § 9-602(a-1) of the Labor and Employment
17 Article, as enacted by Section 1 of this Act.

18 (c) If the recalculation of the average weekly wage under subsection (b) of this
19 section results in a higher weekly compensation, the increase in compensation shall be
20 effective beginning only with the first payment of compensation that is due on or after the
21 effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2025.