



Senate Finance Committee  
March 9, 2021

Testimony of Chesapeake Employers' Insurance Company and  
Injured Workers' Insurance Fund in Opposition to  
Senate Bills 725, 756, 812, 813, 860

Senate Bills 725, 756, 812, 813 and 860 seek to provide a presumption of compensability under the Workers' Compensation Act for certain employees diagnosed with severe acute respiratory syndrome Coronavirus (COVID-19). For the following reasons, Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund respectfully oppose Senate Bills 725, 756, 812, 813 and 860.

Under current law, any employee contracting COVID-19 is permitted to file a workers' compensation claim alleging the condition arose out of and in the course of his or her employment. In fact, numerous individuals have filed such claims and been awarded or received benefits. Chesapeake and IWIF have received 785 First Reports of Injury as of this writing, with only 69 of those reports being "denied." No presumption has been needed to assist with an injured worker's evidentiary burden as, unlike conditions such as lung cancer or asbestosis, COVID-19 can often be contact traced to its source. The ability to trace the cause of the condition obviates the need for a presumption.

Senate Bills 725, 756, 812, 813 and 860 seek to first classify COVID-19 as an occupational disease under Maryland Law; per current law, however, COVID-19 is not an occupational disease as that term is defined. Under current law, an occupational disease must (a) be an inherent hazard of a specific employment and (b) be slow and insidious in its approach (Asbestosis, for example). COVID-19 does not meet either criteria; it is not a hazard inherent in any employment and contracting the condition is not a slow or insidious process. COVID-19,

under current workers' compensation law, would be treated as an accident as there is one specific source of exposure for COVID-19. This is significant in that presumptions do not attach to accidents. As such, Senate Bills 725, 756, 812, 813 and 860 run afoul of current law.

Additionally, Senate Bills 725, 756, 812, 813 and 860 seek to create a permanent statutory framework for a condition that has not been deemed to be permanent in nature. In the limited number of states addressing this issue, sunset provisions have become common place. Not all referenced bills contain such a provision.

Senate Bills 725, 756, 812, 813 and 860 also confer a presumption on classes of employees never before included in presumption legislation which, under years of settled law, are the exclusive province of public safety employees.

Lastly, the bills, as drafted, present differing evidentiary standards depending on the condition: heart and lung cases would differ from COVID-19 cases, causing uncertainty in the presentation of evidence.

Chesapeake and IWIF are obviously mindful of the effects COVID-19 has had on Maryland society. We contend, however, that as for workers' compensation, the system is working as presently constructed and no legislation is needed in this area. Current law adequately protects those contracting COVID-19 in the workplace.

For those reasons, Chesapeake and IWIF respectfully oppose Senate Bills 725, 756, 812, 813 and 860 and request an unfavorable report.

*Contact: Carmine G. D'Alessandro  
Chief Legal Officer  
Chesapeake Employers Insurance Company/IWIF  
(410)-494-2305  
[cdalessandro@ceiwc.com](mailto:cdalessandro@ceiwc.com)*