

Senate Finance Committee

SB 750: Labor and Employment – Workers’ Compensation – Exceptions to Exclusivity of Liability

UNFAVORABLE | March 5, 2024

Chair Beidle and Members of the Committee:

On behalf of the National Association of Mutual Insurance Companies¹ (NAMIC) thank you for the opportunity to submit this statement to express our opposition to Senate Bill 750 and request an unfavorable report.

NAMIC consists of nearly 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country’s largest national insurers.

SB 750 authorizes the estate of a deceased employee to bring civil litigation against the employer based on allegations that the worker’s death was the result of an intentional act or omission of the employer or the employer’s gross negligence. By allowing civil actions against employers, SB 750 breaches the exclusive remedy of workers’ compensation and could jeopardize the critical role the workers’ compensation system plays in protecting both employees and employers.

Workers' compensation is the result of a grand bargain between employers and labor to create a no-fault system that provides quick, certain, and equitable indemnity and medical benefits to workers suffering workplace injuries. Prior to the grand bargain of workers' compensation, if a worker was injured in the workplace, he or she would have to file a tort action against the employer and carry his or her burden that the employer's negligence caused the injury. Moreover, the employer could defeat the action by showing the worker's negligence contributed to the injury. Such liability actions were expensive and time consuming, with uncertain outcomes.

In place of such civil actions, the grand bargain of workers' compensation was created. Under the *no fault* workers' compensation system, an injured worker receives indemnity benefits and first-dollar medical care (with no deductibles, co-pays or lifetime limits) for all workplace injuries, regardless of fault, and *even in the absence of any fault* by the employer. Most claims are paid quickly without disputes and without the delay, expense, and uncertainty of litigation.

In return for accepting responsibility for all workplace injuries, even in the absence of any employer fault, the exclusive remedy provision of the law broadly protects the employer from civil litigation.

SB 750 would expand the exception to exclusive remedy beyond these constitutional requirements, instead allowing litigation in many, if not nearly all, of the occupational fatality cases in Maryland. Allowing the

¹ NAMIC member companies write \$357 billion in annual premiums and represent 69 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets. Through its advocacy programs NAMIC promotes public policy solutions that benefit member companies and the policyholders they serve and fosters greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.



estate of a deceased worker to file civil actions against the employer would expose Maryland employers to significantly more litigation. In addition, SB 750 would apply retroactively to claims filed on or after January 1, 2022, which is of particular concern because adequate premium has not been obtained to cover these losses which may cause solvency concerns.

NAMIC and our members understand the desire to provide a remedy for occupational deaths. However, we believe the approach embodied in the grand bargain of workers' compensation provides the best system for employers and employees and urge the committee not to expand the exceptions to this system that could threaten its ability to strike this balance.

For these reasons, NAMIC is opposed to Senate Bill 750 and respectfully requests an unfavorable report of the bill.

Sincerely,

Matt Overturf, NAMIC Regional Vice President
Ohio Valley/Mid-Atlantic Region