

UNOFFICIAL COPY OF SENATE BILL 750

SENATE BILL 750

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By: **Senator Corderman**

Introduced and read first time: February 1, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Workers' Compensation - Exceptions to Exclusivity of**
3 **Liability**

4 FOR the purpose of altering the exception to the exclusivity of an employer's liability under
5 workers' compensation law for covered employees who are ~~injured or~~ killed as the
6 result of the deliberate intent of the employer to ~~injure or~~ kill the covered employee;
7 deeming an employer to have acted with deliberate intent under certain
8 circumstances; ~~establishing an exception to exclusivity of liability of an employer~~
9 ~~under workers' compensation law for a covered employee who is killed by another~~
10 ~~employee~~; providing for the retroactive application of this Act; and generally relating
11 to exceptions to the exclusivity of an employer's liability under workers'
12 compensation law.

13 BY repealing and reenacting, with amendments,
14 Article - Labor and Employment
15 Section 9-509
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2023 Supplement)

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

20 **Article - Labor and Employment**

21 9-509.

22 (a) Except as otherwise provided in this title, the liability of an employer under
23 this title is exclusive.

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1 (b) Except as otherwise provided in this title, the compensation provided under
 2 this title to a covered employee or the dependents of a covered employee is in place of any
 3 right of action against any person.

4 (c) (1) If an employer fails to secure compensation in accordance with this title,
 5 a covered employee who has sustained an accidental personal injury, compensable hernia,
 6 or occupational disease or, in case of death, the personal representative of the covered
 7 employee may:

- 8 (i) bring a claim for compensation under this title; or
- 9 (ii) bring an action for damages.

10 (2) In an action of a covered employee or personal representative under this
 11 subsection, an employer may not plead as a defense that:

- 12 (i) the covered employee assumed the risk of employment;
- 13 (ii) the covered employee was contributorily negligent; or
- 14 (iii) the negligence of a fellow servant caused the accidental personal
 15 injury, compensable hernia, or occupational disease.

16 (d) ~~(1) (I)~~ If a covered employee is injured ~~or killed~~ as the result of the
 deliberate
 17 intent of the employer to injure ~~or kill~~ the covered employee, the covered employee ~~or, in~~
 18 ~~the case of death, a surviving spouse, child, or dependent of the covered employee~~ may:

19 [(1)] ~~(1) 1. 2.~~
 bring a claim for compensation under this title; ~~for~~ ~~AND~~

20 [(2)] ~~(1) 1. 2.~~
 bring an action for damages against the employer.

(II) IF A COVERED EMPLOYEE IS KILLED AS THE RESULT OF THE DELIBERATE INTENT OF THE EMPLOYER TO KILL THE COVERED EMPLOYEE, A SURVIVING SPOUSE, CHILD, OR DEPENDENT OF THE COVERED EMPLOYEE MAY:

1. BRING A CLAIM FOR COMPENSATION UNDER THIS TITLE;
AND

2. BRING AN ACTION FOR DAMAGES AGAINST THE
EMPLOYER.

21 (2) FOR THE PURPOSE OF PARAGRAPH (1) OF THIS SUBSECTION, AN
 22 EMPLOYER IS DEEMED TO HAVE ACTED WITH DELIBERATE INTENT IF THE
 23 EMPLOYER:

24 (I) ACTED IN A MANNER THAT WAS PREMEDITATED OR
 25 WILLFUL IN CAUSING THE INJURY TO OR DEATH OF THE COVERED EMPLOYEE; OR

26 (II) HAD ACTUAL KNOWLEDGE THAT AN INJURY OR DEATH WAS
 27 SUBSTANTIALLY LIKELY TO OCCUR AND WILLFULLY DISREGARDED THAT
 28 KNOWLEDGE.

29 ~~(E) IF A COVERED EMPLOYEE IS KILLED BY THE INTENTIONAL ACTION OF~~
 30 ~~ANOTHER EMPLOYEE, A SURVIVING SPOUSE, CHILD, OR DEPENDENT OF THE~~
 31 ~~COVERED EMPLOYEE MAY:~~

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1 ~~(1) BRING A CLAIM FOR COMPENSATION UNDER THIS TITLE; AND~~

2 ~~(2) BRING AN ACTION FOR DAMAGES AGAINST THE EMPLOYER.~~

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
4 apply retroactively and shall be applied to and interpreted to affect a cause of action arising
5 or a workers' compensation claim filed on or after January 1, 2022.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2024.