



Senate Finance Committee
March 5, 2024

Testimony of Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund in Opposition to Senate Bill 750

Senate Bill 750 seeks to alter the exclusivity of an employer's liability under workers' compensation law for covered employees injured or killed as the result of the deliberate intent of the employer to injure or kill a covered employee. For the foregoing reasons, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund respectfully oppose Senate Bill 750.

Section 9-509 of the Labor and Employment Article provides the bedrock of Maryland's workers' compensation system; that is, employers are immune from civil suit for work related injuries as the provision of workers' compensation benefits are an injured worker's sole recourse for recovery, regardless of fault. Moreover, employers forfeit all traditional defenses to civil suits such as contributory negligence and assumption of the risk.

Currently, there are two exceptions to this "exclusivity of liability": first, employers failing to carry workers' compensation insurance can be sued in lieu of providing workers' compensation benefits and, second, employees intentionally harmed by employers can sue in lieu of receiving workers' compensation benefits. Senate Bill 750 alters Section 9-509's framework by allowing injured workers both causes of action, namely a civil suit and a workers' compensation claim. Senate Bill 750, therefore, upends years of workers' compensation law by undoing the grand bargain between employers and employees that both provides compensation for employees regardless of fault, while also limiting an employer's overall liability. Moreover, current law allows, in the circumstances described by Senate Bill 750, employee choice as to how to proceed: workers' compensation claim or a civil suit. This choice allows an injured worker to pick the most beneficial cause of action for the injured worker, while still limiting the employee to one cause of action. Senate Bill 750, therefore, will lead to a slippery slope of further carve-outs in Maryland's workers' compensation system, further eroding the bargain underlying the workers' compensation system.

Lastly, Senate Bill 750's inclusion of section (E) is unnecessary as covered by current Section 9-101(b)(2) of the Labor and Employment Article, which gives employees a cause of action (a workers' compensation claim) in the situation in which an employee is injured by the intentional act of a fellow employee.

For the foregoing reasons, Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund respectfully request an unfavorable report on Senate Bill 750.

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