

HOUSE BILL 1101

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CF SB 949

By: **The Speaker (By Request – Administration) and Delegates Barkley, Barnes, Guzzone, Hucker, Ivey, Malone, McHale, Ross, Valentino-Smith, and Vaughn**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 22, 2012

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation – Medical Presumptions**

3 FOR the purpose of ~~providing that certain occupational disease presumptions under~~
4 ~~the workers' compensation law apply only for a certain number of years after an~~
5 ~~individual separates from service~~; providing that certain diseases and cancers
6 are considered occupational diseases suffered in the line of duty and are
7 compensable in a certain manner; ~~limiting a jurisdiction's total benefit payout~~
8 ~~for certain workers' compensation benefits to a certain amount~~; and generally
9 relating to the occupational disease presumption for certain diseases and
10 cancers under the workers' compensation law.

11 BY repealing and reenacting, with amendments,
12 Article – Labor and Employment
13 Section 9–503
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2011 Supplement)

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

18 **Article – Labor and Employment**

19 9–503.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) ~~(1)~~ A paid firefighter, paid fire fighting instructor, or sworn member of
 2 the Office of the State Fire Marshal employed by an airport authority, a county, a fire
 3 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
 4 fighting instructor, volunteer rescue squad member, or volunteer advanced life
 5 support unit member who is a covered employee under § 9–234 of this title is
 6 presumed to have an occupational disease that was suffered in the line of duty and is
 7 compensable under this title if:

8 ~~{(1)}~~ ~~(I)~~ the individual has heart disease, hypertension, or lung
 9 disease;

10 ~~{(2)}~~ ~~(II)~~ the heart disease, hypertension, or lung disease results in
 11 partial or total disability or death; and

12 ~~{(3)}~~ ~~(III)~~ in the case of a volunteer firefighter, volunteer fire fighting
 13 instructor, volunteer rescue squad member, or volunteer advanced life support unit
 14 member, the individual has met a suitable standard of physical examination before
 15 becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life
 16 support unit member.

17 ~~(2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS~~
 18 ~~SUBSECTION SHALL APPLY ONLY FOR 15 YEARS AFTER THE DATE THAT THE~~
 19 ~~INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.~~

20 (b) (1) A paid police officer employed by an airport authority, a county,
 21 the Maryland–National Capital Park and Planning Commission, a municipality, or the
 22 State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this
 23 subsection, a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City,
 24 Montgomery County correctional officer, Prince George’s County deputy sheriff, Prince
 25 George’s County correctional officer, or deputy sheriff of Allegany County is presumed
 26 to be suffering from an occupational disease that was suffered in the line of duty and is
 27 compensable under this title if:

28 (i) the police officer, deputy sheriff, or correctional officer is
 29 suffering from heart disease or hypertension; and

30 (ii) the heart disease or hypertension results in partial or total
 31 disability or death.

32 (2) (i) A deputy sheriff of Anne Arundel County, a deputy sheriff of
 33 Baltimore City, Montgomery County correctional officer, Prince George’s County
 34 deputy sheriff, or Prince George’s County correctional officer is entitled to the
 35 presumption under this subsection only to the extent that the individual suffers from
 36 heart disease or hypertension that is more severe than the individual’s heart disease
 37 or hypertension condition existing prior to the individual’s employment as a deputy

1 sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County
 2 correctional officer, Prince George's County deputy sheriff, or Prince George's County
 3 correctional officer.

4 (ii) To be eligible for the presumption under this subsection, a
 5 deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City,
 6 Montgomery County correctional officer, Prince George's County deputy sheriff, or
 7 Prince George's County correctional officer, as a condition of employment, shall submit
 8 to a medical examination to determine any heart disease or hypertension condition
 9 existing prior to the individual's employment as a deputy sheriff of Anne Arundel
 10 County, deputy sheriff of Baltimore City, Montgomery County correctional officer,
 11 Prince George's County deputy sheriff, or Prince George's County correctional officer.

12 (c) ~~(1)~~ A paid firefighter, paid fire fighting instructor, or a sworn member
 13 of the Office of the State Fire Marshal employed by an airport authority, a county, a
 14 fire control district, a municipality, or the State or a volunteer firefighter, volunteer
 15 fire fighting instructor, volunteer rescue squad member, or volunteer advanced life
 16 support unit member who is a covered employee under § 9-234 of this title is
 17 presumed to be suffering from an occupational disease that was suffered in the line of
 18 duty and is compensable under this title if the individual:

19 ~~[(1)]~~ ~~(I)~~ has leukemia or pancreatic, prostate, rectal, [or] throat,
 20 ~~ESOPHAGEAL MULTIPLE MYELOMA, NON-HODGKIN'S LYMPHOMA, BRAIN,~~
 21 ~~TESTICULAR, BLADDER, BREAST, URETHRAL, OR DIGESTIVE OR BREAST~~ cancer
 22 that is caused by contact with a toxic substance that the individual has encountered in
 23 the line of duty;

24 ~~[(2)]~~ ~~(II)~~ has completed at least ~~[5]~~ 10 years of service as a
 25 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
 26 member or in a combination of those jobs in the department where the individual
 27 currently is employed or serves;

28 ~~[(3)]~~ ~~(III)~~ is unable to perform the normal duties of a firefighter, fire
 29 fighting instructor, rescue squad member, or advanced life support unit member in the
 30 department where the individual currently is employed or serves because of the cancer
 31 or leukemia disability; and

32 ~~[(4)]~~ ~~(IV)~~ in the case of a volunteer firefighter, volunteer fire fighting
 33 instructor, volunteer rescue squad member, or volunteer advanced life support unit
 34 member, has met a suitable standard of physical examination before becoming a
 35 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
 36 member.

37 ~~(2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS~~
 38 ~~SUBSECTION SHALL APPLY ONLY FOR 20 YEARS AFTER THE DATE THAT THE~~
 39 ~~INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.~~

~~(3) ON AN ANNUAL BASIS, A JURISDICTION'S TOTAL BENEFIT PAYOUT UNDER THIS SUBSECTION FOR TEMPORARY TOTAL DISABILITY BENEFITS, TEMPORARY PARTIAL DISABILITY BENEFITS, PERMANENT PARTIAL DISABILITY BENEFITS, PERMANENT TOTAL DISABILITY BENEFITS, AND DEPENDENCY BENEFITS MAY NOT EXCEED 110% OF THE JURISDICTION'S HIGHEST ANNUAL PAYOUT FOR SUCH BENEFITS.~~

(d) (1) (i) A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9-207 of this title and a park police officer of the Maryland-National Capital Park and Planning Commission is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

1. is suffering from Lyme disease; and

2. was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(ii) The presumption under this subsection for a park police officer of the Maryland-National Capital Park and Planning Commission shall only apply:

1. during the time that the park police officer is assigned to a position that regularly places the park police officer in an outdoor wooded environment; and

2. for 3 years after the last date that the park police officer was assigned by the Maryland-National Capital Park and Planning Commission to a position that regularly placed the officer in an outdoor wooded environment.

(2) (i) An employee of the Maryland-National Capital Park and Planning Commission other than a park police officer is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

1. is suffering from Lyme disease; and

2. was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(ii) The presumption under this paragraph shall apply only if:

1 1. for the 12-month period before the filing of the claim
2 for workers' compensation under this section, the employee:

3 A. has not been employed by the Maryland-National
4 Capital Park and Planning Commission as a seasonal or intermittent employee; and

5 B. has been employed by the Maryland-National Capital
6 Park and Planning Commission on a full-time basis;

7 2. the employee's assignment to a position that regularly
8 places the employee in an outdoor wooded environment lasted for at least 1 year; and

9 3. the employee files the claim for workers'
10 compensation on or before the third anniversary of the last date that the employee was
11 assigned to a position that regularly placed the employee in an outdoor wooded
12 environment.

13 (e) (1) Except as provided in paragraph (2) of this subsection, any paid
14 firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire
15 Marshal, paid police officer, paid law enforcement employee of the Department of
16 Natural Resources, deputy sheriff of Anne Arundel County, park police officer or
17 employee of the Maryland-National Capital Park and Planning Commission, deputy
18 sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County
19 correctional officer, deputy sheriff of Prince George's County, or Prince George's
20 County correctional officer who is eligible for benefits under subsection (a), (b), (c), or
21 (d) of this section or the dependents of those individuals shall receive the benefits in
22 addition to any benefits that the individual or the dependents of the individual are
23 entitled to receive under the retirement system in which the individual was a
24 participant at the time of the claim.

25 (2) The benefits received under this title shall be adjusted so that the
26 weekly total of those benefits and retirement benefits does not exceed the weekly
27 salary that was paid to the paid law enforcement employee of the Department of
28 Natural Resources, a park police officer or employee of the Maryland-National Capital
29 Park and Planning Commission, firefighter, fire fighting instructor, sworn member of
30 the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's
31 County or Montgomery County correctional officer.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2012.