

SENATE BILL 756

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EMERGENCY BILL

1lr2342

By: **Senator Carter**

Introduced and read first time: February 5, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Occupational Disease Presumptions – COVID-19**

3 FOR the purpose of providing that certain covered employees who are suffering from the
4 effects of severe acute respiratory syndrome coronavirus 2 are presumed, under
5 certain circumstances, to have an occupational disease that was suffered in the line
6 of duty or course of employment and is compensable in a certain manner; requiring
7 an individual who is eligible for benefits under certain provisions of this Act to
8 provide a copy of a certain test or certain written documentation to the employer or
9 insurer; establishing the date of disablement; specifying that a certain individual not
10 entitled to a certain presumption is not precluded from claiming an occupational
11 disease or personal injury under State law; requiring that a covered employee who
12 is eligible for certain benefits receive the benefits in addition to any benefits that the
13 individual or the dependents of the individual are entitled to receive under the
14 retirement system in which the individual was a participant at the time of the claim,
15 subject to a certain limitation; defining certain terms; providing for the application
16 of this Act; making this Act an emergency measure; and generally relating to
17 occupational disease presumptions under the workers' compensation law.

18 BY repealing and reenacting, with amendments,
19 Article – Labor and Employment
20 Section 9–503
21 Annotated Code of Maryland
22 (2016 Replacement Volume and 2020 Supplement)

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

25 **Article – Labor and Employment**

26 9–503.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

8 (1) the individual has heart disease, hypertension, or lung disease;

9 (2) the heart disease, hypertension, or lung disease results in partial or
10 total disability or death; and

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

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

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

26 (ii) the heart disease or hypertension results in partial or total
27 disability or death.

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

37 (ii) To be eligible for the presumption under this subsection, a deputy
38 sheriff of Anne Arundel County, Anne Arundel County detention officer, deputy sheriff of
39 Baltimore City, Montgomery County correctional officer, Prince George’s County deputy

1 sheriff, or Prince George's County correctional officer, as a condition of employment, shall
2 submit to a medical examination to determine any heart disease or hypertension condition
3 existing prior to the individual's employment as a deputy sheriff of Anne Arundel County,
4 Anne Arundel County detention officer, deputy sheriff of Baltimore City, Montgomery
5 County correctional officer, Prince George's County deputy sheriff, or Prince George's
6 County correctional officer.

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

14 (1) the individual has leukemia or prostate, rectal, throat, multiple
15 myeloma, non-Hodgkin's lymphoma, brain, testicular, bladder, kidney or renal cell, or
16 breast cancer that is caused by contact with a toxic substance that the individual has
17 encountered in the line of duty;

18 (2) the individual has completed at least 10 years of cumulative service
19 within the State as a firefighter, a fire fighting instructor, a rescue squad member, or an
20 advanced life support unit member or in a combination of those jobs;

21 (3) the cancer or leukemia results in partial or total disability or death; and

22 (4) in the case of a volunteer firefighter, volunteer fire fighting instructor,
23 volunteer rescue squad member, or volunteer advanced life support unit member, the
24 individual has met a suitable standard of physical examination before becoming a
25 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
26 member.

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

32 (i) is suffering from Lyme disease; and

33 (ii) was not suffering from Lyme disease before assignment to a
34 position that regularly places the employee in an outdoor wooded environment.

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

37 (i) during the time that the park police officer is assigned to a

1 position that regularly places the park police officer in an outdoor wooded environment;
2 and

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

6 (E) A PAID FIREFIGHTER, PAID RESCUE SQUAD MEMBER, PAID ADVANCED
7 LIFE SUPPORT UNIT MEMBER, VOLUNTEER FIREFIGHTER, VOLUNTEER RESCUE
8 SQUAD MEMBER, VOLUNTEER ADVANCED LIFE SUPPORT UNIT MEMBER, PAID
9 POLICE OFFICER EMPLOYED BY AN AIRPORT AUTHORITY, A COUNTY, A
10 MUNICIPALITY, OR THE STATE, SHERIFF, OR DEPUTY SHERIFF IS PRESUMED TO BE
11 SUFFERING FROM AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE LINE OF
12 DUTY AND IS COMPENSABLE UNDER THIS TITLE IF:

13 (1) THE INDIVIDUAL IS SUFFERING FROM THE EFFECTS OF SEVERE
14 ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2; AND

15 (2) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID–19 OR
16 TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 OR
17 SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES.

18 (F) (1) IN THIS SUBSECTION, “HEALTH CARE WORKER” MEANS AN
19 INDIVIDUAL WHOSE PRIMARY PLACE OF EMPLOYMENT IS A FACILITY LICENSED
20 UNDER TITLE 19 OF THE HEALTH – GENERAL ARTICLE OR AN INDIVIDUAL
21 EMPLOYED IN A HEALTH CARE, HOME CARE, OR LONG–TERM CARE SETTING WHOSE
22 DUTIES INCLUDE DIRECT PATIENT CARE OR ANCILLARY WORK IN AREAS WHERE
23 PATIENTS WITH COVID–19 ARE DIAGNOSED OR TREATED.

24 (2) A HEALTH CARE WORKER IS PRESUMED TO BE SUFFERING FROM
25 AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE COURSE OF EMPLOYMENT
26 AND IS COMPENSABLE UNDER THIS TITLE IF:

27 (I) THE INDIVIDUAL IS SUFFERING FROM THE EFFECTS OF
28 SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2;

29 (II) THE INDIVIDUAL’S DUTIES REQUIRED THE INDIVIDUAL TO:

30 1. BE IN DIRECT CONTACT WITH PATIENTS; OR

31 2. OCCUPY, CLEAN, OR REPAIR AREAS OCCUPIED BY
32 PATIENTS; AND

33 (III) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID–19

1 OR TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2
2 OR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES.

3 (G) (1) AN INDIVIDUAL WHO IS ELIGIBLE FOR BENEFITS UNDER
4 SUBSECTION (E) OR (F) OF THIS SECTION SHALL PROVIDE A COPY OF THE POSITIVE
5 TEST OR THE WRITTEN DOCUMENTATION CONFIRMING THE DIAGNOSIS TO THE
6 EMPLOYER OR INSURER.

7 (2) THE DATE OF DISABILITY FOR AN INDIVIDUAL WHO IS ELIGIBLE
8 FOR BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS SECTION SHALL BE THE FIRST
9 DATE ON WHICH THE EMPLOYEE WAS UNABLE TO WORK DUE TO A DIAGNOSIS OF
10 COVID-19 OR DUE TO SYMPTOMS THAT WERE LATER DIAGNOSED AS COVID-19,
11 WHICHEVER OCCURRED FIRST.

12 (3) AN EMPLOYEE WHO HAS BEEN DIAGNOSED WITH COVID-19 BUT
13 WHO IS NOT ELIGIBLE FOR BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS
14 SECTION IS NOT PRECLUDED FROM CLAIMING AN OCCUPATIONAL DISEASE OR FROM
15 CLAIMING A PERSONAL INJURY UNDER STATE LAW.

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

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
36 apply retroactively and shall be applied to and interpreted to affect any claim for workers'
37 compensation benefits filed on or after March 5, 2020.

38 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency

1 measure, is necessary for the immediate preservation of the public health or safety, has
2 been passed by a ye and nay vote supported by three-fifths of all the members elected to
3 each of the two Houses of the General Assembly, and shall take effect from the date it is
4 enacted.