

SENATE BILL 813

K1

EMERGENCY BILL

1lr1665
CF HB 1199

By: **Senator Klausmeier (Chair, Worker's Compensation Benefit and Insurance Oversight Committee)**

Introduced and read first time: February 9, 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 that an individual who is eligible for benefits under certain provisions of this Act
8 provide a copy of a certain test or certain written documentation to the employer or
9 insurer; establishing the date of injury; 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; providing that a certain presumption
12 may be rebutted only under certain circumstances; requiring that certain covered
13 employees receive certain benefits in addition to certain other benefits; requiring
14 that certain benefits be adjusted in a certain manner; defining certain terms; making
15 this Act an emergency measure; providing for the application of this Act; and
16 generally relating to occupational disease presumptions under the workers'
17 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

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

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

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

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

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

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

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

33 (i) is suffering from Lyme disease; and

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

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

1 (i) during the time that the park police officer is assigned to a
2 position that regularly places the park police officer in an outdoor wooded environment;
3 and

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

7 **(E) A PAID FIREFIGHTER, PAID RESCUE SQUAD MEMBER, PAID ADVANCED**
8 **LIFE SUPPORT UNIT MEMBER, PARAMEDIC, VOLUNTEER FIREFIGHTER, VOLUNTEER**
9 **RESCUE SQUAD MEMBER, VOLUNTEER ADVANCED LIFE SUPPORT UNIT MEMBER,**
10 **VOLUNTEER PARAMEDIC, PAID POLICE OFFICER EMPLOYED BY AN AIRPORT**
11 **AUTHORITY, A TRANSIT AUTHORITY, A COUNTY, A MUNICIPALITY, OR THE STATE,**
12 **SHERIFF, DEPUTY SHERIFF, CORRECTIONAL OFFICER, OR SECURITY COUNSELOR**
13 **EMPLOYED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE AT A**
14 **CORRECTIONS, DETENTION, OR SECURE TREATMENT FACILITY IS PRESUMED TO BE**
15 **SUFFERING FROM AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE LINE OF**
16 **DUTY AND IS COMPENSABLE UNDER THIS TITLE IF:**

17 **(1) THE INDIVIDUAL IS SUFFERING FROM THE EFFECTS OF SEVERE**
18 **ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2;**

19 **(2) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID–19 OR**
20 **TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 OR**
21 **SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES; AND**

22 **(3) THE INDIVIDUAL’S DUTIES REQUIRED THE INDIVIDUAL TO**
23 **PERFORM LABOR OR SERVICES AT A LOCATION OTHER THAN THE INDIVIDUAL’S**
24 **HOME OR RESIDENCE WITHIN 14 DAYS BEFORE THE ONSET OF SYMPTOMS.**

25 **(F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
26 **MEANINGS INDICATED.**

27 **(II) “CHILD CARE WORKER” MEANS AN INDIVIDUAL WHO IS**
28 **REQUIRED TO PROVIDE CHILD CARE TO FIRST RESPONDERS OR HEALTH CARE**
29 **WORKERS.**

30 **(III) 1. “EDUCATION WORKER” MEANS AN INDIVIDUAL**
31 **WHOSE PRIMARY PLACE OF EMPLOYMENT IS A SCHOOL OR INSTITUTION OF HIGHER**
32 **EDUCATION.**

33 **2. “EDUCATION WORKER” INCLUDES TEACHERS,**
34 **PARAPROFESSIONAL EDUCATORS, SUPPORT WORKERS, ADMINISTRATIVE**
35 **PERSONNEL, MAINTENANCE WORKERS, AND FOOD SERVICE WORKERS.**

1 (IV) "ESSENTIAL WORKER" MEANS AN INDIVIDUAL WHO IS
2 REQUIRED TO WORK ON THE PREMISES OF A BUSINESS OR GOVERNMENT AGENCY
3 THAT HAS BEEN DECLARED ESSENTIAL DURING A DECLARED STATE OF EMERGENCY
4 OR UNDER AN EXECUTIVE ORDER ISSUED BY A LOCAL, STATE, OR FEDERAL
5 AUTHORITY.

6 (V) "HEALTH CARE WORKER" MEANS AN INDIVIDUAL WHOSE
7 PRIMARY PLACE OF EMPLOYMENT IS A FACILITY LICENSED UNDER TITLE 19 OF THE
8 HEALTH - GENERAL ARTICLE OR AN INDIVIDUAL EMPLOYED IN A HEALTH CARE,
9 HOME CARE, OR LONG-TERM CARE SETTING WHOSE DUTIES INCLUDE DIRECT
10 PATIENT CARE OR ANCILLARY WORK IN AREAS WHERE PATIENTS DIAGNOSED WITH
11 COVID-19 ARE TREATED.

12 (2) A CHILD CARE WORKER, EDUCATION WORKER, ESSENTIAL
13 WORKER, OR HEALTH CARE WORKER IS PRESUMED TO BE SUFFERING FROM AN
14 OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE COURSE OF EMPLOYMENT
15 AND IS COMPENSABLE UNDER THIS TITLE IF:

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

18 (II) THE INDIVIDUAL HAS BEEN DIAGNOSED WITH COVID-19
19 OR TESTS POSITIVE FOR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2
20 OR SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2 ANTIBODIES; AND

21 (III) THE INDIVIDUAL'S DUTIES REQUIRED THE INDIVIDUAL TO
22 PERFORM LABOR OR SERVICES AT A LOCATION OTHER THAN THE INDIVIDUAL'S
23 HOME OR RESIDENCE WITHIN 14 DAYS BEFORE THE ONSET OF SYMPTOMS.

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

28 (2) THE DATE OF INJURY FOR AN INDIVIDUAL WHO IS ELIGIBLE FOR
29 BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS SECTION SHALL BE THE FIRST
30 DATE ON WHICH THE EMPLOYEE WAS UNABLE TO WORK DUE TO A DIAGNOSIS OF
31 COVID-19 OR DUE TO SYMPTOMS THAT WERE LATER DIAGNOSED AS COVID-19,
32 WHICHEVER OCCURRED FIRST.

33 (3) AN EMPLOYEE WHO HAS BEEN DIAGNOSED WITH COVID-19 BUT
34 WHO IS NOT ELIGIBLE FOR BENEFITS UNDER SUBSECTION (E) OR (F) OF THIS

1 SECTION IS NOT PRECLUDED FROM CLAIMING AN OCCUPATIONAL DISEASE OR FROM
2 CLAIMING A PERSONAL INJURY UNDER STATE LAW.

3 (4) THE PRESUMPTION ESTABLISHED UNDER SUBSECTION (E) OR (F)
4 OF THIS SECTION MAY BE REBUTTED ONLY IF THE EMPLOYER OR INSURER SHOWS
5 THE EMPLOYMENT WAS NOT A CONTRIBUTING CAUSE OF THE DISEASE.

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
26 apply only prospectively and may not be applied or interpreted to have any effect on or
27 application to any claim for benefits filed before the effective date of this Act.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
29 measure, is necessary for the immediate preservation of the public health or safety, has
30 been passed by a yea and nay vote supported by three–fifths of all the members elected to
31 each of the two Houses of the General Assembly, and shall take effect from the date it is
32 enacted.