



1995

Maryland: Recent / Pending Legislation

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Recommended Citation

Allen, Ruth G. (1995) "Maryland: Recent / Pending Legislation," *University of Baltimore Law Forum*: Vol. 25 : No. 3 , Article 15.
Available at: <http://scholarworks.law.ubalt.edu/lf/vol25/iss3/15>

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MARYLAND LEGISLATION*

LABOR AND EMPLOYMENT:

Workers' Compensation—Subsequent Injury Fund—Assessment. *See H.B. 862; S.B. 539, 409th Legis., 1st Sess. (1995).*

The new law would alter the termination date of an assessment payable to the Subsequent Injury Fund, which is imposed by the Workers' Compensation Commission on certain awards and settlement agreements.

State Personnel—Accident Leave. *See H.B. 168, 409th Legis., 1st Sess. (1995).*

The proposed law repeals a requirement that an employee must be injured in the actual performance of the employee's job to be entitled to work-related accident leave with sick pay. Each employee subject to this law is entitled to work-related accident leave with sick pay if the employee sustains an accidental injury that would be compensable under the Maryland Workers' Compensation Act and a physician examines the employee and certifies that the employee is disabled because of the injury.

Workers' Compensation—Owner-Operator of Class F (Tractor) Vehicle. *See S.B. 537, 409th*

Legis., 1st Sess. (1995).

The proposed amendment provides that an individual who is the owner-operator of a Class F (tractor) vehicle who enters into an agreement with a motor carrier is not a covered employee of himself or herself as subcontractor, and is not a covered employee entitled to Workers' Compensation from a principal contractor, if the individual and principal contractor make a written agreement for permanent or trip leasing, and under the agreement, there is no intent to create an employer-employee relationship, and the subcontractor is paid rental compensation and qualifies for independent contractor status for federal tax purposes.

Workers' Compensation—Judicial Review. *See S.B. 634, 409th Legis., 1st Sess. (1995).*

Proposed law provides that a person may appeal from a decision of the Workers' Compensation Commission by filing a petition for judicial review in accordance with Title 7 of the Maryland Rules and serving copies of the petition on the Commission and each other party of record. A person filing a petition under this section must attach to the petition a certificate of compliance with this Act. Failure to comply with the Act shall

*Unless otherwise indicated, changes in the law are only proposed changes. The referenced changes were passed by the Maryland General Assembly, but have not been signed into law by Governor Parris Glendening as of the date of this publication.

result in mandatory dismissal of the appeal, notwithstanding substantial compliance with the applicable provisions of the Maryland Rules.

Subsequent Injury Fund-Assessments not a tax. *See H.B. 863; S.B. 588, 409 Legis., 1st Sess. (1995).*

Proposed law provides that the assessment payable to the Subsequent Injury Fund is not a tax and the Property and Casualty Insurance Guaranty Corporation is subject to the assessment. The Commission shall impose an assessment of 6.5 % payable to the Subsequent Injury Fund on each award against an employer or its insurer for permanent disability or death, including awards for disfigurement and mutilation; each amount payable by an employer or its insurer under a settlement agreement approved by the Commission; and each amount payable by the Property and Casualty Corporation on behalf of insolvent insurers is subject to the assessment. The assessment imposed under this section is for payment of claims submitted to the Subsequent Injury Fund and is not a tax intended to benefit the state.

Injured Workers' Insurance Fund—Procedural Requirements for Payment of Premiums, Reporting on Wages, and Cancellation of Policy. *See S.B. 384, 409 Legis., 1st. Sess. (1995).*

The proposed law requires the Board for Injured Workers' Insurance Fund to adopt regulations that provide procedures and standards for the payment of premiums; alters the requirements for reporting wages; repeals a requirement that notice of cancellation of a policy must be given a certain time before a policyholder may cancel a policy; and alters the titles of the administrative officers of the Fund. A policyholder may cancel a policy under this subtitle if the policyholder gives the Fund written notice and promptly pays all premiums owed to the Fund.

Retirement and Pensions—Offsets for Workers' Compensation Benefits. *See S.B. 136, 409 Legis., 1st Sess. (1995).*

Proposed law alters the requirement for a reduction in disability retirement benefits as a result of certain workers' compensation benefits to make the law apply consistently among certain State retirement and pension systems. The law limits the reduction to allow a certain minimum amount to be paid for each of those State systems and provides that, for each of those systems, the retirement allowance to be reduced is the retirement allowance at retirement. The Board of Trustees shall reduce a disability retirement benefit by any related workers' compensation benefits paid or payable after the effective date of retirement, if the workers' compensation benefits: are paid or payable while a pension is paid or payable and are for an accidental personal injury or occupational disease arising out of and in the course of the retiree's employment.

Insurance Code—Corrections, Clarifications, and Modifications. *See H.B. 1232, 409 Legis., 1st Sess. (1995).*

The proposed law, *inter alia*, repeals the requirement that a workers' compensation insurer have an office in this state.

General Assembly Rejected:

A bill clarifying that an individual who provides in-home care to another individual pursuant to a referral by an agency or registry is not covered by the unemployment insurance law or the workers' compensation law under certain circumstances. The caregiver's employment is neither covered employment, nor is the caregiver a covered employee, if the caregiver has the option of accepting or rejecting the referral, the caregiver is free from the control and direction of the agency or registry in performing the work, and the caregiver is paid by the individual to whom the care is provided or another person on behalf of that individual and not by the agency or registry.

The General Assembly rejected an amendment establishing that a covered employee or a

dependent of a covered employee is not entitled to compensation or benefits as a result of an intentional, self-inflicted accidental personal injury, compensable hernia, or occupational disease; or an attempt to injure or kill another, caused by the willful misconduct of the covered employee.

Rejected a proposal altering the earnings level above which a domestic servant in a private home is a covered employee with respect to the household under workers' compensation law.

Rejected a proposal altering the provision of medical benefits to a claimant under the workers' compensation law.

Rejected a proposal extending the presumption of compensability under the workers' compensation law to Prince George's County Deputy Sheriffs, who suffer from heart disease or hypertension resulting in partial or permanent disability or death.

Rejected a measure repealing provisions that would abrogate competitive rating, and altering the procedure by which the State Insurance Commissioner of Maryland may determine that a rate for a certain line of insurance is excessive.

Rejected a sexual harassment proposal requiring education and training in the workplace which would require employers to provide employees with certain information concerning sexual harassment and conduct education and training programs concerning sexual harassment in the workplace.

FAMILY LAW:

Juvenile Causes—Detention and Shelter Care, See H.B. 1343, 409 Legis., 1st Sess. (1995).

Proposed law allows a court to continue an emergency shelter care order for a child in need of supervision or assistance or who is delinquent after

the court, under certain circumstances, finds that the continued shelter care is in the best interest of the child; making this Act an **emergency measure**. Shelter care may not be ordered for a period of more than 30 days, unless the court finds, after a hearing held within 30 days as part of the adjudication or for the purpose of considering continued shelter care, that the continued shelter care is in the best interests of the child. If the court finds continued shelter care to be in the best interests of the child, the court may continue shelter care as appropriate until the conclusion of the disposition hearing.

ETHICS:

Ethics Law—Unsolicited Gifts of Nominal Value. See H.B. 6, 409 Legis., 1st Sess. (1995).

Proposed law prohibits a member of the General Assembly from accepting certain unsolicited gifts from certain entities; allows a member of the General Assembly to accept an unsolicited gift, not exceeding \$15.00, from a regulated lobbyist; makes it unlawful for certain regulated lobbyists to make certain gifts to certain officials and employees under certain circumstances.

Public Ethics—Lobbyists—Disclosure of Gifts of Meals or Beverages to Members of the General Assembly. See H.B. 3, 409 Legis., 1st Sess. (1995).

Proposed law requires a regulated lobbyist to file with the State Ethics Commission a report disclosing the name of any member of the General Assembly, or member of the immediate family of a member of the General Assembly, who has benefitted from gifts of meals or beverages, whether or not in connection with lobbying activities.

CRIMINAL LAW:

Death Penalty Reform. See S.B. 340, 409 Legis., 1st Sess. (1995).

The General Assembly approved the governor's proposal to speed up death penalty appeals. A warrant of execution for a person who has been sentenced to death shall be stayed during the direct review process and the state post-conviction review process. If at the conclusion of the post-conviction review process, the original warrant has not expired, the judge who imposed the death sentence or the judge then presiding in the trial court in which the sentence was imposed, shall lift the stay. If the original warrant of execution has expired at the conclusion of the post-conviction review process, the judge who imposed the death penalty or the then presiding judge shall issue another warrant of execution. The legislation further reduces the number of post-conviction appeals, from two to one, available to a death row inmate.

WELFARE REFORM PILOT PROGRAM:

Welfare Reform Pilot Program. *See S.B. 212, 409 Legis., 1st Sess. (1995).*

Proposed law requires the Secretary to create and establish a Welfare Reform Pilot Program and select project areas in Baltimore City, Prince George's County, and Anne Arundel County in which to implement the pilot. The program would require recipients to perform community service interspersed with job training and job search activities after three months on welfare. The recipients would be required to work the lesser of forty hours per week or the number of hours per week equal to the recipients' total weekly AFDC, Food Stamps, Child Care allow-

ance, and estimated medical assistance benefits divided by the federal minimum wage. The program exempts parents with children under age three.

JUDICIARY: Constitutional Amendment.

Commission on Judicial Disabilities. *See H.B. 916, 409 Legis., 1st Sess. (1995).*

Proposed amendment to the Constitution of Maryland would alter the membership and powers of the Commission on Judicial Disabilities. The Commission has powers to investigate complaints against any judge of the court of appeals, any intermediate courts of appeals, the circuit courts, the District Court of Maryland, or the Orphans Court. The Commission has the power to reprimand, remove, censure, or take other disciplinary action against a judge or retire a judge upon petition by that judge, subject to review by the Court of Appeals of Maryland. Three members of the Commission must be appointed from among judges, two members from among lawyers, and six members from among the public, excluding judges—active and retired—persons admitted to practice law in this state, and anyone who has a financial interest in or receives compensation from a judge or person admitted to practice law in this state.

Source: Maryland General Assembly, Department of Legislative Reference, Status Report, and WESTLAW Bill Tracking.

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