

# SENATE BILL 681

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By: **Senators Klausmeier, Middleton, Astle, Kelley, Kittleman, and Pipkin**  
Introduced and read first time: February 1, 2013  
Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Medical Presumptions – Statute of Limitations on**  
3 **Claims**

4 FOR the purpose of altering the date by which a medical expert is required to conduct  
5 a certain study and report the findings of the study to the Department of  
6 Legislative Services; delaying the date by which a claim filed for an  
7 occupational disease may be based on alterations to a certain presumption;  
8 delaying the date by which alterations to a certain presumption may be  
9 construed to apply for a claim filed for an occupational disease; tolling the  
10 statute of limitations for a covered employee for a certain period of time under  
11 certain circumstances; and generally relating to occupational disease claims.

12 BY repealing and reenacting, without amendments,  
13 Article – Labor and Employment  
14 Section 9–503(c)  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume and 2012 Supplement)  
17 (As enacted by Chapter 445 of the Acts of the General Assembly of 2012)

18 BY repealing and reenacting, without amendments,  
19 Article – Labor and Employment  
20 Section 9–711  
21 Annotated Code of Maryland  
22 (2008 Replacement Volume and 2012 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Chapter 445 of the Acts of the General Assembly of 2012  
25 Section 2, 4, 5, and 6

26 BY adding to  
27 Chapter 445 of the Acts of the General Assembly of 2012

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 Section 4

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

4 **Article – Labor and Employment**

5 9–503.

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

13 (1) has leukemia or prostate, rectal, throat, multiple myeloma,  
14 non–Hodgkin’s lymphoma, brain, testicular, or breast cancer that is caused by contact  
15 with a toxic substance that the individual has encountered in the line of duty;

16 (2) has completed at least 10 years of service as a firefighter, fire  
17 fighting instructor, rescue squad member, or advanced life support unit member or in  
18 a combination of those jobs in the department where the individual currently is  
19 employed or serves;

20 (3) is unable to perform the normal duties of a firefighter, fire fighting  
21 instructor, rescue squad member, or advanced life support unit member in the  
22 department where the individual currently is employed or serves because of the cancer  
23 or leukemia disability; and

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

29 9–711.

30 (a) (1) If a covered employee suffers a disablement or death as a result of  
31 an occupational disease, the covered employee or the dependents of the covered  
32 employee shall file a claim application form with the Commission within 2 years, or in  
33 the case of pulmonary dust disease within 3 years, after the date:

34 (i) of disablement or death; or

1 (ii) when the covered employee or the dependents of the covered  
2 employee first had actual knowledge that the disablement was caused by the  
3 employment.

4 (2) (i) A claim application form filed under paragraph (1) of this  
5 subsection shall include an authorization by the claimant for the release, to the  
6 claimant's attorney, the claimant's or covered employee's employer, and the insurer of  
7 the claimant's or covered employee's employer, or an agent of the claimant's attorney,  
8 the claimant's or covered employee's employer, or the insurer of the claimant's or  
9 covered employee's employer, of medical information that is relevant to:

10 1. the member of the body that was injured, as indicated  
11 on the claim application form; and

12 2. the description of how the occupational disease  
13 occurred, as indicated on the claim application form.

14 (ii) An authorization under subparagraph (i) of this paragraph:

15 1. includes the release of information relating to the  
16 history, findings, office and patient charts, files, examination and progress notes, and  
17 physical evidence;

18 2. is effective for 1 year from the date the claim is filed;  
19 and

20 3. does not restrict the redisclosure of medical  
21 information or written material relating to the authorization to a medical manager,  
22 health care professional, or certified rehabilitation practitioner.

23 (b) Unless waived under subsection (c) of this section, failure to file a claim  
24 in accordance with subsection (a) of this section bars a claim under this title.

25 (c) The defense of failure to file a claim in accordance with subsection (a) of  
26 this section is waived if the employer or its insurer:

27 (1) fails to raise the defense of the failure to file the claim at a hearing  
28 on the claim before the Commission makes any award or decision;

29 (2) pays compensation for the disability or death resulting from the  
30 occupational disease; or

31 (3) by its affirmative conduct leads the covered employee or other  
32 claimant to reasonably believe that the requirement of filing a claim has been waived.

33

1 SECTION 2. AND BE IT FURTHER ENACTED, That:

2 (a) (1) The Department of Legislative Services, in consultation with and  
3 as agreed by the affected stakeholders, shall contract with a medical expert affiliated  
4 with an academic research institution or organization to conduct a study of all types of  
5 cancers that firefighters, firefighting instructors, members of the Office of the State  
6 Fire Marshal, rescue squad members, and advanced life support unit members, as  
7 specified under the workers' compensation cancer presumption law, may contract in  
8 the line of duty, as compared to the general population.

9 (2) The purpose of the study is to provide guidance to the General  
10 Assembly as to the types of cancers firefighters and others are likely to contract in the  
11 line of duty in order for the General Assembly to determine which types of cancers  
12 should be included in the workers' compensation cancer presumption law.

13 (3) (i) Funding, if any, that may be needed to pay for the study  
14 shall be from sources other than the Department.

15 (ii) If adequate funding is not available to pay for the study, the  
16 Department shall notify the Governor, the affected stakeholders, and, in accordance  
17 with § 2-1246 of the State Government Article, the Senate Finance Committee and  
18 the House Economic Matters Committee, that the Department is unable to contract  
19 with a medical expert affiliated with an academic research institution or organization  
20 to conduct the study, and requesting whether additional funding may be secured in  
21 order for the Department to proceed with contracting with a medical expert.

22 (b) In conducting the study, the medical expert shall:

23 (1) identify and review recent objective and statistically valid studies  
24 and other medical evidence relating to all types of cancers firefighters and others may  
25 contract in the line of duty;

26 (2) prepare a summary table ranking the likelihood of each type of  
27 cancer risk to firefighters and others, as compared to the general public;

28 (3) determine whether there is a benchmark that could be used to  
29 determine if a specific type of cancer should be included in the workers' compensation  
30 cancer presumption law; and

31 (4) consider other relevant matters that relate to the purpose of the  
32 study.

33 (c) In conducting the study, the medical expert shall consult with any person  
34 or entity that the medical expert determines appropriate.

1 (d) (1) On or before December 1, [2012] **2014**, the medical expert  
2 conducting the study shall report the findings of the study to the Department of  
3 Legislative Services.

4 (2) On receipt of the report, the Department of Legislative Services  
5 shall forward the report to the Senate Finance Committee and the House Economic  
6 Matters Committee, in accordance with § 2-1246 of the State Government Article.

7 **SECTION 4. AND BE IT FURTHER ENACTED, THAT THE 2-YEAR**  
8 **STATUTE OF LIMITATIONS FOR FILING A CLAIM UNDER § 9-711 OF THE LABOR**  
9 **AND EMPLOYMENT ARTICLE SHALL BE TOLLED UNTIL JUNE 1, 2015, FOR A**  
10 **COVERED EMPLOYEE WHO:**

11 (1) **FILES A CLAIM THAT WOULD OTHERWISE BE CONSIDERED**  
12 **TIMELY;**

13 (2) **MEETS THE REQUIREMENTS OF § 9-503(C) OF THE LABOR**  
14 **AND EMPLOYMENT ARTICLE; AND**

15 (3) **IS FILING AN OCCUPATIONAL DISEASE CLAIM FOR MULTIPLE**  
16 **MYELOMA, NON-HODGKIN'S LYMPHOMA, OR BRAIN, TESTICULAR, OR BREAST**  
17 **CANCER.**

18 **SECTION [4.] 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act:**

19 (1) shall apply to claims filed for an occupational disease on or after  
20 June 1, [2013] **2015**; and

21 (2) may not be construed to apply to any claim filed before June 1,  
22 [2013] **2015**.

23 **SECTION [5.] 6. AND BE IT FURTHER ENACTED, That Section 1 of this Act**  
24 **shall take effect June 1, [2013] 2015.**

25 **SECTION [6.] 7. AND BE IT FURTHER ENACTED, That, except as provided**  
26 **in Section 5 of this Act, this Act shall take effect June 1, 2012.**

27 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
28 **June 1, 2013.**