

# 2009 VIRGINIA GENERAL ASSEMBLY

## Summary of Workers' Compensation Bills

### PASSED

#### **HB 1674/Purkey; SB 1158/Saslaw - therapeutically equivalent drugs.**

Requires a pharmacist filling a prescription for a workers' compensation claim to dispense a therapeutically equivalent drug for a prescribed name-brand drug unless (i) a therapeutically equivalent drug does not exist or the retail price for it is higher than that of the prescribed name-brand drug or (ii) the prescriber specifies on the prescription "brand medically necessary" based on a medical reason why the claimant should not have the prescription filled with a therapeutically equivalent drug. *These bills were supported by the Chamber's Business Coalition on Workers' Compensation (BCWC) in an effort to reduce costs.*

**HB 1756/Hargrove; SB 1372/Ruff - local government self-insurance pools.** Establishes a mechanism for the merger of the local government group self-insurance association and local government group self-insurance pool for the purpose of allowing political subdivisions to provide insurance coverage for their employees.

**HB 2111/Spruill - infectious disease presumption; police officers of the Virginia Port Authority.** Adds sworn Virginia Port Authority police officers to those public safety employees who are entitled to the presumption that certain

infectious diseases are occupational diseases compensable under the Act.

#### **HB 2292/Cline - insurance notices.**

Authorizes the Commission to designate an agent for receipt of insurance-related notices that are required to be given to the Commission by an employer, insurance carrier, or group self-insurance association.

**HB 2515/Tata - uninsured employer's fund.** Increases the maximum tax rate that may be assessed on uninsured or self-insured employers from 0.25 percent to 0.5 percent. The revenues from the tax fund benefits that are awarded against such employers from the uninsured employer's fund. The measure sunsets on July 1, 2012. *The Chamber's BCWC supported this bill.*

#### **SB 1047/Y. Miller - occupational disease presumption; police officers of the Virginia Port Authority.**

Establishes a presumption that hypertension or heart disease causing the death or disability of a sworn Virginia Port Authority police officer is an occupational disease compensable under the Act.

### FAILED

**HB 1749/Pogge - infectious disease presumption.** Adds employees of a locality or other political subdivision who are employed in a sewerage system,

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sewage treatment works, water treatment plant, wastewater treatment plant, or waste treatment works or system, to the existing list of public employees who are entitled to the presumption that hepatitis, meningococcal meningitis, tuberculosis, or HIV are occupational diseases compensable under the Act.

**HB 1958/Mathieson; HB 2478/Hugo - infectious disease presumption.**

Authorizes the Governor to declare that a communicable, contagious, or infectious disease is a disease that is covered by the existing infectious disease presumption for firefighters, paramedics, emergency medical technicians, and certain law-enforcement officers under the Act. *The presumption currently exists for hepatitis, meningococcal meningitis, tuberculosis, and HIV.*

**HB 1959/Mathieson - discharge of public safety employees.** Prohibits the Commonwealth, a locality, or a political subdivision from discharging or terminating an employee suffering from a line of duty injury or occupational illness for a period of (i) one year after the injury occurred or illness arose, if the employee has not returned to employment in full unrestricted duty, or (ii) two years after the injury occurred or illness arose, if a physician has determined, before the expiration of the one-year period, that the employee, within the ensuing one year, will reach maximum medical improvement and, to a reasonable degree of medical probability, will resume employment without significant limitations in the

position he held when the injury occurred or illness arose.

**HB 2252/Barlow - occupational disease presumption limitation.**

Establishes a limitations period in which a public safety employee may bring a claim for hepatitis, meningococcal meningitis, or tuberculosis at two years after a positive test for exposure to the occupational disease is first communicated to the employee. The limitation applies only to those public safety employees who are entitled to the existing presumption that hepatitis, meningococcal meningitis, tuberculosis, or HIV for which there is a documented occupational exposure have incurred an occupational disease. *Existing law provides that the limitations period for claims involving HIV is two years after a positive test for infection with human immunodeficiency virus, while the limitations period for hepatitis, meningococcal meningitis, or tuberculosis is the earlier to occur of (i) two years after a diagnosis of the disease is first communicated to the employee or (ii) five years from the date of the last injurious exposure in employment.*

**HB 2272/Poindexter - statutory employers.** Provides that a person who contracts for a subcontractor is not required to insure benefits to the subcontractor, and is not liable for any injury sustained by the subcontractor, if the subcontractor is an individual who conducts business as a sole proprietorship, is licensed to perform the work, and has no employees or

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subcontractors engaged in the same trade.

**SB 821/Stuart - presumption that injury arises out of employment.**

Creates a presumption that a workplace injury results from an accident arising out of employment if the employee is found dead or to have incurred a brain injury resulting from external mechanical force that impairs the employee's brain function to such an extent that the employee is incapable of

recalling the relevant circumstances of the accident. *A judicially created presumption currently exists when an employee is found dead as the result of an accident at his place of work and there is no evidence offered to show what caused the death or to show that he was not engaged in his employer's business at the time. The BCWC opposed the bill's expansion.*

*Last updated 2/28/09*

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