

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Maloney

Typed by: Gail

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By: **Montgomery County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Workers’ Compensation – Average Weekly Wage**
3 **Computation**

4 **MC 701-07**

5 FOR the purpose of authorizing Montgomery County to use a certain method for
6 computing a certain wage for the purpose of determining the payment of
7 workers’ compensation awards; requiring the Workers’ Compensation
8 Commission to adopt certain regulations; providing for the application of this
9 Act; and generally relating to the computation method for workers’
10 compensation awards.

11 BY repealing and reenacting, without amendments,
12 Article – Labor and Employment
13 Section 9-601 and 9-602(a)
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2006 Supplement)

16 BY adding to
17 Article – Labor and Employment
18 Section 9-602(m)
19 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



20 (1999 Replacement Volume and 2006 Supplement)

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

23 **Article – Labor and Employment**

24 9–601.

25 A provision of this subtitle may not be construed to change:

26 (1) a law relating to an accidental personal injury or an occupational
27 disease, that occurred before the effective date of the provision and for which a claim is
28 made under this title; or

29 (2) the payment basis in effect when an accidental personal injury or
30 an occupational disease, for which a claim is made under this title, occurred.

31 9–602.

32 (a) (1) Except as otherwise provided in this section, the average weekly
33 wage of a covered employee shall be computed by determining the average of the
34 weekly wages of the covered employee:

35 (i) when the covered employee is working full time; and

36 (ii) at the time of:

37 1. the accidental personal injury; or

38 2. the last injurious exposure of the covered employee to
39 the hazards of an occupational disease.

40 (2) For purposes of a computation under paragraph (1) of this
41 subsection, wages shall include:

42 (i) tips; and

43 (ii) the reasonable value of housing, lodging, meals, rent, and
44 other similar advantages that the covered employee received from the employer.

45 (3) If a covered employee establishes that, because of the age and
46 experience of the covered employee at the time of the accidental personal injury or last
47 injurious exposure to the hazards of the occupational disease, the wages of the covered

48 employee could be expected to increase under normal circumstances, the expected
49 increase may be taken into account when computing the average weekly wage of the
50 covered employee under paragraph (1) of this subsection.

51 **(M) (1) FOR THE PURPOSE OF COMPUTING THE AVERAGE WEEKLY**
52 **WAGE OF AN INDIVIDUAL WHO IS COVERED FOR WORKER'S COMPENSATION BY**
53 **THE MONTGOMERY COUNTY SELF-INSURANCE PROGRAM, THE WAGES OF THE**
54 **COVERED EMPLOYEE SHALL BE THE AVERAGE WAGE EARNED BY THE COVERED**
55 **EMPLOYEE DURING THE 14 WEEKS BEFORE THE ACCIDENTAL PERSONAL**
56 **INJURY, PROVIDED THAT PERIODS OF INVOLUNTARY LAYOFF OR INVOLUNTARY**
57 **AUTHORIZED ABSENCES ARE NOT INCLUDED IN THE 14 WEEKS.**

58 **(2) THE AVERAGE WEEKLY WAGE UNDER PARAGRAPH (1) OF THIS**
59 **SUBSECTION SHALL INCLUDE:**

60 **(I) THE WEEKS THAT THE COVERED EMPLOYEE ACTUALLY**
61 **WORKED DURING THE 14 WEEKS BEFORE THE ACCIDENTAL PERSONAL INJURY;**

62 **(II) VACATION WAGES PAID TO THE COVERED EMPLOYEE;**
63 **AND**

64 **(III) THE WAGE PROVISIONS SPECIFIED UNDER SUBSECTION**
65 **(A)(2) OF THIS SECTION.**

66 SECTION 2. AND BE IT FURTHER ENACTED, That the Workers'
67 Compensation Commission shall adopt any regulations necessary to administer this
68 Act.

69 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
70 construed to apply only prospectively and may not be applied or interpreted to have
71 any effect on or application to any claims for workers' compensation before the
72 effective date of this Act.

73 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
74 July 1, 2007.