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HOUSE BILL NO. 2219

Offered January 10, 2007
Prefiled January 9, 2007

A BILL to amend the Code of Virginia by adding in Chapter 1 of Title 65.2 a section numbered 65.2-105, relating to workers' compensation; alternative dispute resolution systems agreed to in certain collective bargaining agreements.

Patrons—Amundson, Bulova and Scott, J.M.

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 65.2 a section numbered 65.2-105 as follows:

§ 65.2-105. Alternative dispute resolution provided by certain collective bargaining agreements.

A. Subject to subsection E, (i) an employer that is primarily engaged in the construction business and (ii) a recognized or certified exclusive collective bargaining representative of its employees, with which the employer has a signatory agreement, may include in a collective bargaining agreement between them provisions that authorize or require:

1. An alternative dispute resolution system, which may include but is not limited to mediation and binding arbitration that modifies, supplements, or replaces all or part of the dispute resolution procedures contained in this title;

2. The use of an agreed list of health care providers of medical treatment and expertise, which may be the source of all medical and related examinations, treatment, and testimony provided under this title;

3. The use of an agreed list of health care providers to conduct independent medical examinations;

4. A light duty, modified job, or return-to-work program; and

5. A vocational rehabilitation or retraining program.

B. All settlements and resolutions of claims under an alternative dispute resolution system shall be submitted to the Commission for approval. The Commission shall approve settlements and resolutions of claims that the Commission determines are in compliance with this title. All arbitration decisions under an alternative dispute resolution system shall be reviewable in the same manner and under the same procedures as decisions of deputy commissioners.

C. An agreement under this section is not valid until it has been filed with the Commission and determined by the Commission to be in compliance with this section and this title.

D. An agreement under this section that has been determined to be in compliance with this section and this title by the Commission shall be binding on the employer and the collective bargaining representative of its employees.

E. A collective bargaining agreement shall not include any provision that:

1. Exempts a covered employee or an employer from a duty of the covered employee or employer under this title;

2. Waives or limits a right or benefit of a covered employee or employer under this title, except as otherwise set forth in this subsection;

3. Affects the imposition of an assessment on settlements and resolutions of claims; or

4. Affects claims made under provisions of this title applicable to second injuries as provided in § 65.2-506 or involving uninsured employers.

F. Any provision of a collective bargaining agreement that is included in violation of subsection E is void.

G. Notwithstanding the inclusion in a collective bargaining agreement of a provision authorized by subdivision A 2, an injured employee whose injury or treatment is related to a medical condition for which the employee is being or has been treated may continue to seek treatment from the health care provider who is treating or has treated the condition.

H. An agreement under this subsection shall provide for an appeal mechanism for a covered employee who wishes to use a health care provider who is not on the agreed list of health care providers established pursuant a provision authorized by subdivision A 3.

I. Nothing in this section requires an insurer to underwrite a program established pursuant to subsection A.