

SECOND REGULAR SESSION

HOUSE BILL NO. 1647

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHROER.

5444H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.067, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 287.067 and 287.068, to read as follows:

287.067. 1. **(1)** In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

(2) For purposes of this section, the following terms mean:

(a) "Diseases of the body systems and organs from carcinoma", any condition of cancer affecting the skin or central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver, or prostate system, as well as any condition of cancer that may result from exposure to heat absorption, inhalation, ingestion, or radiation;

(b) "Hazardous duty", the same meaning given to the term under 5 CFR 550.902;

(c) "Infectious disease", the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus,**
19 **hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome;**

20 **(d) "Psychological stress" or "mental disorder", a condition, whether sudden or**
21 **gradual in onset, that is diagnosed by a psychiatrist or psychologist and that requires**
22 **medical services or results in physical or mental disability.**

23 2. An injury or death by occupational disease is compensable only if the occupational
24 exposure was the prevailing factor in causing both the resulting medical condition and disability.
25 The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing
26 both the resulting medical condition and disability. Ordinary, gradual deterioration, or
27 progressive degeneration of the body caused by aging or by the normal activities of day-to-day
28 living shall not be compensable.

29 3. An injury due to repetitive motion is recognized as an occupational disease for
30 purposes of this chapter. An occupational disease due to repetitive motion is compensable only
31 if the occupational exposure was the prevailing factor in causing both the resulting medical
32 condition and disability. The "prevailing factor" is defined to be the primary factor, in relation
33 to any other factor, causing both the resulting medical condition and disability. Ordinary,
34 gradual deterioration, or progressive degeneration of the body caused by aging or by the normal
35 activities of day-to-day living shall not be compensable.

36 4. "Loss of hearing due to industrial noise" is recognized as an occupational disease for
37 purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to
38 prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of
39 producing occupational deafness.

40 5. "Radiation disability" is recognized as an occupational disease for purposes of this
41 chapter and is hereby defined to be that disability due to radioactive properties or substances or
42 to Roentgen rays (X-rays) or exposure to ionizing radiation caused by any process involving the
43 use of or direct contact with radium or radioactive properties or substances or the use of or direct
44 exposure to Roentgen rays (X-rays) or ionizing radiation.

45 6. ~~[Disease]~~ **(1) Diseases** of the lungs or respiratory tract~~[-hypotension, hypertension,~~
46 ~~or disease]~~ ; **diseases** of the heart or cardiovascular system, including **hypotension and**
47 **hypertension; diseases of the blood; diseases of the bone marrow; and diseases of the body**
48 **systems and organs from carcinoma[-] may be recognized as occupational diseases for the
49 purposes of this chapter and are defined to be disability due to exposure to smoke, gases,
50 carcinogens, or inadequate oxygen, of paid or volunteer firefighters, paramedics, and
51 emergency medical technicians of a ~~paid~~ fire department or fire district or paid police
52 officers of a paid police department certified under chapter 590 ~~[if a direct causal relationship~~
53 ~~is established, or]~~ .**

54 **(2) Psychological stress and mental disorders may be recognized as occupational**
55 **diseases for the purposes of this chapter and are defined to be disability due to exposure**
56 **to stressful events of paid or volunteer firefighters, paramedics, and emergency medical**
57 **technicians of a [paid] fire department or fire district or paid peace officers of a police**
58 **department who are certified under chapter 590 if [a direct causal relationship] the psychological**
59 **stress or mental disorder is established as having arisen from exposure to the stressful event**
60 **or events.**

61 7. Any employee who is exposed to and contracts any contagious or communicable
62 disease arising out of and in the course of his or her employment shall be eligible for benefits
63 under this chapter as an occupational disease.

64 8. With regard to occupational disease due to repetitive motion, if the exposure to the
65 repetitive motion which is found to be the cause of the injury is for a period of less than three
66 months and the evidence demonstrates that the exposure to the repetitive motion with the
67 immediate prior employer was the prevailing factor in causing the injury, the prior employer
68 shall be liable for such occupational disease.

69 **9. (1) Any infectious disease; disease of the lung or respiratory tract; disease of the**
70 **heart or cardiovascular system, including hypotension or hypertension; disease of the**
71 **blood; or disease of the bone marrow contracted by a paid, volunteer, or retired firefighter,**
72 **paramedic, or emergency medical technician of a fire department or fire district shall be**
73 **presumed as an occupational disease if there is reasonable medical evidence that the**
74 **firefighter, paramedic, or emergency medical technician was free of such disease at the**
75 **beginning of his or her employment or volunteer service for the fire department or fire**
76 **district.**

77 **(2) The employer of the firefighter, paramedic, or emergency medical technician**
78 **shall provide any reasonable medical evidence that would tend to prove that the firefighter,**
79 **paramedic, or emergency medical technician was or was not free of such disease at the**
80 **beginning of his or her employment or volunteer service for the fire department or fire**
81 **district.**

82 **(3) If the employer fails to produce any reasonable medical evidence, such disease**
83 **of the firefighter, paramedic, or emergency medical technician shall be presumed an**
84 **occupational disease in the same manner as if the employer had produced reasonable**
85 **medical evidence that the firefighter, paramedic, or emergency medical technician was free**
86 **of such disease at the beginning of his or her employment or volunteer service for the fire**
87 **department or fire district.**

88 **10. (1) Psychological stress or mental disorder of a paid, volunteer, or retired**
89 **firefighter, paramedic, or emergency medical technician of a fire department or fire**

90 district or paid peace officer of a paid police department certified under chapter 590 shall
91 be presumed as an occupational disease that was contracted in the course and scope of
92 employment.

93 (2) A paid, volunteer, or retired firefighter, paramedic, or emergency medical
94 technician of a fire department or fire district or paid peace officer of a paid police
95 department certified under chapter 590 who is diagnosed with post-traumatic stress
96 disorder, psychological stress, or mental disorder during employment or during volunteer
97 service or within three years of the last active date of employment or volunteer service shall
98 be eligible for compensation benefits as otherwise provided for in this chapter, with no
99 showing regarding causality required.

100 11. A disease of the body system or organ from carcinoma contracted by a paid,
101 volunteer, or retired firefighter, paramedic, or emergency medical technician of a fire
102 department or fire district shall be presumed as an occupational disease if:

103 (1) The firefighter, paramedic, or emergency medical technician has been assigned
104 to at least five years of hazardous duty as a firefighter, paramedic, or emergency medical
105 technician;

106 (2) The firefighter, paramedic, or emergency medical technician was exposed to an
107 agent classified by the International Agency for Research on Cancer or its successor
108 organization as a group 1 or 2A carcinogen or classified as a cancer-causing agent by the
109 American Cancer Society, the American Association for Cancer Research, the Agency for
110 Healthcare Research and Quality, the American Society of Clinical Oncology, the National
111 Institute for Occupational Safety and Health, or the National Cancer Institute;

112 (3) Twenty years have not elapsed since the firefighter, paramedic, or emergency
113 medical technician was last assigned to hazardous duty as a firefighter, paramedic, or
114 emergency medical technician before the diagnosis of cancer; and

115 (4) At the time of the diagnosis of cancer, the firefighter, paramedic, or emergency
116 medical technician is not seventy years of age or older.

117 12. The cancer presumption described in subsection 11 of this section shall be
118 rebuttable if:

119 (1) There is evidence that the exposure to the personal use of cigarettes, tobacco
120 products, or other conditions presenting an extremely high risk for the development of the
121 cancer alleged more than likely was the prevailing factor in the cause of progression of the
122 cancer, and such exposure occurred outside the scope of employment or volunteer service
123 as a firefighter, paramedic, or emergency medical technician; or

(2) There is evidence that the firefighter, paramedic, or emergency medical technician incurred the type of cancer alleged before becoming a member of the fire department or fire district.

13. The psychological stress or mental disorder presumption described in subdivision (1) of subsection 10 of this section shall be rebuttable if:

(1) There is evidence that the condition existed before the commencement of employment or volunteer service;

(2) The prevailing factor in causing the condition is a factor unrelated to the employment or volunteer service; or

(3) The prevailing factor in causing the condition is an exposure occurring outside the scope of employment or volunteer service.

14. Subsections 9 to 13 of this section shall apply to paid, volunteer, and retired firefighters, paramedics, and emergency medical technicians of all fire departments of all counties, political subdivisions, cities, towns, fire districts, and other governmental units.

287.068. 1. The division shall prepare a report containing the following information regarding presumed claims under subsections 9, 10, and 11 of section 287.067:

(1) The number of approved claims;

(2) The number of disapproved claims;

(3) The number of active claims; and

(4) The cost related to claims described under subdivisions (1) and (3) of this subsection.

2. The division shall submit the report required under subsection 1 of this section before August 28, 2020, and an updated report every two years thereafter, to all of the following:

(1) The speaker and the minority leader of the house of representatives;

(2) The president pro tempore and the minority leader of the senate;

(3) The Missouri Association of Fire Chiefs or its successor organization;

(4) The Fire Fighters Association of Missouri or its successor organization; and

(5) The Missouri Municipal League or its successor organization.

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