

FIRST REGULAR SESSION

HOUSE BILL NO. 862

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RODEN.

0746H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof three new sections relating to labor rights and benefits.

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

Section A. Section 287.067, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 105.261, 105.263, and 287.067, to read as follows:

105.261. 1. For purposes of this section, the term "public employer" shall mean the state of Missouri, or any office, agency, department, bureau, division, board, or commission of the state, or any school district, political subdivision, or special district within the state.

2. Notwithstanding any provisions of law to the contrary, employees of a public employer shall be allowed to donate their accrued sick leave to a shared pool which can be used by other public employees in this state who are eligible for sick leave but who have exhausted their own personal sick leave balances. The commissioner of administration shall design the shared pool described in this subsection. The commissioner shall collaborate with the chief administrative officers of all public employers to allow for the employees of such employers to donate to and draw from the shared pool. No employee of a public employer shall be allowed to donate his or her accrued sick leave to such a pool in any amount which would reduce such employee's own personal sick leave balance below an amount equal to the greater of eighty hours or the standard number of hours worked by such employee within a two-week period.

3. The commissioner of administration may promulgate rules as necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is

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 defined in section 536.010, that is created under the authority delegated in this section shall
19 become effective only if it complies with and is subject to all of the provisions of chapter
20 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and
21 if any of the powers vested with the general assembly pursuant to chapter 536 to review,
22 to delay the effective date, or to disapprove and annul a rule are subsequently held
23 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
24 after August 28, 2019, shall be invalid and void.

105.263. 1. For purposes of this section, the term "public employee" shall mean
2 any employee of the state of Missouri, or of any office, agency, department, bureau,
3 division, board, or commission of the state, or of any school district, political subdivision,
4 or special district within the state.

5 2. Notwithstanding any provisions of law to the contrary, any public employee who
6 has exhausted all available leave granted under the provisions of the Family and Medical
7 Leave Act of 1993, as amended, 29 U.S.C. Section 2601, et seq., in connection with a cancer
8 diagnosis for such employee's spouse or child shall be granted an extension of such leave
9 for a period of up to one year.

10 3. No public employee shall be penalized for requesting or obtaining an extension
11 of leave under this section.

12 4. The commissioner of administration may promulgate rules as necessary to
13 implement the provisions of this section. Any rule or portion of a rule, as that term is
14 defined in section 536.010, that is created under the authority delegated in this section shall
15 become effective only if it complies with and is subject to all of the provisions of chapter
16 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and
17 if any of the powers vested with the general assembly pursuant to chapter 536 to review,
18 to delay the effective date, or to disapprove and annul a rule are subsequently held
19 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
20 after August 28, 2019, shall be invalid and void.

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

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

10 (a) **"Hazardous duty", the same meaning given to the term under 5 CFR 550.902,**
11 **as amended;**

12 (b) **"Psychological stress" or "mental disorder", a condition, whether sudden or**
13 **gradual in onset, that is diagnosed by a psychiatrist or psychologist and that requires**
14 **medical services or results in physical or mental disability.**

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

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

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

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

37 6. **(1)** Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of
38 the heart or cardiovascular system, including carcinoma, may be recognized as occupational
39 diseases for the purposes of this chapter and are defined to be disability due to exposure to
40 smoke, gases, carcinogens, **or** inadequate oxygen, of paid **or volunteer** firefighters of a ~~paid~~
41 fire department or paid **or volunteer** police officers of a ~~paid~~ police department certified under
42 chapter 590 if a direct causal relationship is established~~[, or]~~. **Psychological stress and mental**
43 **disorders may be recognized as occupational diseases for the purposes of this chapter and**
44 **are defined to be disability due to exposure to stressful events of paid or volunteer**
45 **firefighters, paramedics, and emergency medical technicians of a ~~paid~~ fire department or**

46 **fire district or [paid] peace officers of a police department who are certified under chapter 590**
47 **if [a direct causal relationship] the psychological stress or mental disorder is established as**
48 **having arisen from exposure to the stressful event or events.**

49 **(2) (a) Notwithstanding the provisions of any other law, cancer contracted by a**
50 **paid firefighter who has been assigned to at least five years of hazardous duty as a**
51 **firefighter or cancer contracted by a volunteer firefighter who has been assigned to at least**
52 **ten years of hazardous duty as a firefighter constitutes a presumption that the cancer meets**
53 **the definition of occupational disease under subsection 1 of this section and is compensable**
54 **under the requirements of subsections 1 and 2 of this section if the firefighter was exposed**
55 **to an agent classified by the International Agency for Research on Cancer or its successor**
56 **organization as a group 1 or 2A carcinogen.**

57 **(b) The presumption described in paragraph (a) of this subdivision is rebuttable**
58 **in any of the following situations:**

59 **a. There is evidence that the firefighter's exposure, outside the scope of the**
60 **firefighter's official duties, to cigarettes, tobacco products, or other conditions presenting**
61 **an extremely high risk for the development of the cancer alleged, was probably a**
62 **significant factor in the cause or progression of the cancer;**

63 **b. There is evidence that the firefighter was not exposed to an agent classified by**
64 **the International Agency for Research on Cancer as a group 1 or 2A carcinogen;**

65 **c. There is evidence that the firefighter incurred the type of cancer alleged before**
66 **becoming a member of the fire department; or**

67 **d. The firefighter is sixty-five years of age or older.**

68 **(c) The presumption described under paragraph (a) of this subdivision does not**
69 **apply if it has been more than ten years since the firefighter was last assigned to hazardous**
70 **duty as a firefighter or if the firefighter has retired from his or her employment as a**
71 **firefighter.**

72 **(d) Compensation for cancer contracted by a firefighter in the course of hazardous**
73 **duty under paragraph (a) of this subdivision is payable only in the event of temporary total**
74 **disability, permanent total disability, or death, in accordance with sections 287.170,**
75 **287.200, and 287.230.**

76 **(e) This subdivision shall apply to paid and volunteer firefighters of all fire**
77 **departments of all counties, cities, towns, fire districts, and other government units.**

78 **(f) This subdivision applies only to claims arising on or after August 28, 2019.**

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

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

87 **9. (1) Psychological stress or mental disorder of a paid, volunteer, or retired**
88 **firefighter, paramedic, or emergency medical technician of a fire department or fire**
89 **district or paid peace officer of a paid police department certified under chapter 590 shall**
90 **be presumed as an occupational disease that was contracted in the course and scope of**
91 **employment.**

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

99 **10. The psychological stress or mental disorder presumption described in**
100 **subdivision (1) of subsection 9 of this section shall be rebuttable if:**

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

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

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

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