

FIRST REGULAR SESSION

# HOUSE BILL NO. 1246

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SAULS.

2549H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof one new section relating to workers' compensation, with an emergency clause.

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

Section A. Section 287.067, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.067, to read as follows:

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

3. An injury due to repetitive motion is recognized as an occupational disease for purposes of this chapter. An occupational disease due to repetitive motion is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical

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 condition and disability. The "prevailing factor" is defined to be the primary factor, in relation  
19 to any other factor, causing both the resulting medical condition and disability. Ordinary,  
20 gradual deterioration, or progressive degeneration of the body caused by aging or by the normal  
21 activities of day-to-day living shall not be compensable.

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

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

31 6. Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the  
32 heart or cardiovascular system, including carcinoma, may be recognized as occupational diseases  
33 for the purposes of this chapter and are defined to be disability due to exposure to smoke, gases,  
34 carcinogens, inadequate oxygen, of paid firefighters of a paid fire department or paid police  
35 officers of a paid police department certified under chapter 590 if a direct causal relationship is  
36 established, or psychological stress of firefighters of a paid fire department or paid peace officers  
37 of a police department who are certified under chapter 590 if a direct causal relationship is  
38 established.

39 7. (1) Any employee who is exposed to and contracts any contagious or communicable  
40 disease arising out of and in the course of his or her employment shall be eligible for benefits  
41 under this chapter as an occupational disease.

42 (2) (a) **Any infectious disease; disease of the lungs or respiratory tract; disease of**  
43 **the heart or cardiovascular system including, but not limited to, disease of the blood or**  
44 **bone marrow, hypotension, or hypertension; or disease of the body systems or organs from**  
45 **carcinoma contracted by a paid, volunteer, or retired firefighter, paramedic, or emergency**  
46 **medical technician, or by a paid emergency or 9-1-1 dispatcher, shall be presumed to be**  
47 **an occupational disease if there is reasonable medical evidence that a person contracting**  
48 **the disease was free of the disease at the beginning of his or her employment. It shall be**  
49 **the duty of the employer of such person to provide reasonable medical evidence.**

50 (b) **If the employer fails to provide such reasonable medical evidence, the paid,**  
51 **volunteer, or retired firefighter, paramedic, or emergency medical technician, or paid**  
52 **emergency or 9-1-1 dispatcher, shall have the benefit of the presumption regardless of the**  
53 **absence of reasonable medical evidence.**

54           (c) This subdivision shall apply to paid, volunteer, and retired firefighters,  
55 paramedics, and emergency medical technicians of all fire departments of all counties,  
56 political subdivisions, cities, towns, fire districts, and other governmental units and to paid  
57 emergency or 9-1-1 dispatchers.

58           (d) As used in this subdivision, "infectious disease" means the human  
59 immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A,  
60 hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis,  
61 methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, severe acute  
62 respiratory syndrome, and any such other disease as identified by the department of health  
63 and senior services, the state emergency management agency, or an executive order of the  
64 governor as a disease that poses a serious health risk for the citizens of Missouri.

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

          Section B. Because immediate action is necessary to protect the health interests of  
2 workers in this state, this act is deemed necessary for the immediate preservation of the public  
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the  
4 meaning of the constitution, and the repeal and reenactment of section 287.067 of section A of  
5 this act shall be in full force and effect upon its passage and approval.

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