

Assembly Bill No. 313—Assemblymen Ocegüera, Gibbons, Goldwater, Buckley, Manendo, Anderson, Angle, Arberry, Bache, Beers, Berman, Brower, Brown, Carpenter, Cegavske, Chowning, Claborn, Collins, de Braga, Dini, Freeman, Giunchigliani, Gustavson, Hettrick, Humke, Koivisto, Lee, Leslie, Marvel, McClain, Mortenson, Neighbors, Nolan, Ohrenschall, Parks, Parnell, Perkins, Price, Smith, Tiffany, Von Tobel and Williams

Joint Sponsors: Senators Amodei, Carlton, Titus, Porter, Care, Coffin, Jacobsen, James, Mathews, McGinness, Neal, Raggio, Rawson, Rhoads, Schneider, Shaffer, Washington and Wiener

CHAPTER.....

AN ACT relating to occupational diseases; creating statutory presumptions that hepatitis is an occupational disease for certain firemen and emergency medical attendants; establishing requirements of eligibility for the statutory presumptions; requiring the testing of such employees for the presence of hepatitis; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 616A.035 is hereby amended to read as follows:

616A.035 1. "Accident benefits" means medical, surgical, hospital or other treatments, nursing, medicine, medical and surgical supplies, crutches and apparatuses, including prosthetic devices.

2. The term includes:

(a) Medical benefits as defined by NRS 617.130;

(b) Preventive treatment administered as a precaution to an employee who is exposed to a contagious disease while providing medical services, including emergency medical care, in the course and scope of his employment; ~~and~~

(c) Preventive treatment administered as a precaution to a police officer or a salaried or volunteer fireman who was exposed to a contagious disease:

(1) Upon battery by an offender; or

(2) While performing the duties of a police officer or fireman,

if the exposure is documented by the creation and maintenance of a report concerning the exposure pursuant to *paragraph (a) of* subsection 1 of NRS 616C.052 ~~+~~; *and*

(d) Preventive treatment for hepatitis administered as a precaution to a full-time salaried fireman or an emergency medical attendant employed in this state.

3. The term does not include:

(a) Exercise equipment, a hot tub or a spa for an employee's home;

(b) Membership in an athletic or health club;

(c) Except as otherwise provided in NRS 616C.245, a motor vehicle; or

(d) The costs of operating a motor vehicle provided pursuant to NRS 616C.245, fees related to the operation or licensing of the motor vehicle or insurance for the motor vehicle.

4. As used in this section : ~~+, the term:+~~

(a) "Battery" includes, without limitation, the intentional propelling or placing, or the causing to be propelled or placed, of any human excrement or bodily fluid upon the person of an employee.

(b) *"Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS, whose primary duties of employment are the provision of emergency medical services.*

(c) *"Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.*

(d) "Preventive treatment" includes, without limitation, tests to determine if an employee has contracted ~~the~~ *hepatitis or any other* contagious disease to which he was exposed.

Sec. 2. NRS 616A.265 is hereby amended to read as follows:

616A.265 1. "Injury" or "personal injury" means a sudden and tangible happening of a traumatic nature, producing an immediate or prompt result which is established by medical evidence, including injuries to prosthetic devices. Any injury sustained by an employee while engaging in an athletic or social event sponsored by his employer shall be deemed not to have arisen out of or in the course of employment unless the employee received remuneration for participation in the event.

2. For the purposes of chapters 616A to 616D, inclusive, of NRS:

(a) Coronary thrombosis, coronary occlusion, or any other ailment or disorder of the heart, and any death or disability ensuing therefrom, shall be deemed not to be an injury by accident sustained by an employee arising out of and in the course of his employment.

(b) The exposure of an employee to a contagious disease while providing medical services, including emergency medical care, in the course and scope of his employment shall be deemed to be an injury by accident sustained by the employee arising out of and in the course of his employment.

(c) The exposure to a contagious disease of a police officer or a salaried or volunteer fireman who was exposed to the contagious disease:

(1) Upon battery by an offender; or

(2) While performing the duties of a police officer or fireman,

shall be deemed to be an injury by accident sustained by the police officer or fireman arising out of and in the course of his employment if the exposure is documented by the creation and maintenance of a report concerning the exposure pursuant to *paragraph (a) of* subsection 1 of NRS 616C.052. As used in this paragraph, the term "battery" includes, without limitation, the intentional propelling or placing, or the causing to be propelled or placed, of any human excrement or bodily fluid upon the person of an employee.

Sec. 3. NRS 616C.052 is hereby amended to read as follows:

616C.052 1. ~~HH~~ *Except as otherwise provided in section 4 of this act, if* a police officer or a salaried or volunteer fireman is exposed to a contagious disease:

(a) Upon battery by an offender; or

(b) While performing the duties of a police officer or fireman, the employer of the police officer or fireman shall create and maintain a report concerning the exposure that includes, without limitation, the name of each police officer or fireman, as applicable, who was exposed to the contagious disease and the name of each person, if any, to whom the police officer or fireman was exposed.

2. Except as otherwise provided in paragraph (d) of subsection 2 of NRS 616A.265, if the results of a physical examination administered pursuant to NRS 617.455 or 617.457 to a police officer or a salaried or volunteer fireman after the commencement of his employment reveal that the police officer or fireman tested positive for exposure to tuberculosis, the police officer or fireman is eligible, during his lifetime, to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for tuberculosis and any additional diseases or conditions that are associated with or result from tuberculosis.

3. ~~HH~~ *Except as otherwise provided in section 4 of this act, if* the employment of a police officer or a salaried or volunteer fireman is terminated, voluntarily or involuntarily, the employer of the police officer or fireman shall:

(a) At the time of termination and at 3 months after the date of termination, provide to the police officer or fireman a purified protein derivative skin test to screen for exposure to tuberculosis, unless the police officer or fireman previously submitted to such a test and tested positive for exposure to tuberculosis. Except as otherwise provided in paragraph (d) of subsection 2 of NRS 616A.265, if a skin test administered pursuant to this paragraph and provided to the employer reveals that the police officer or fireman tested positive for exposure to tuberculosis, the police officer or fireman is eligible, during his lifetime, to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for tuberculosis and any additional diseases or conditions that are associated with or result from tuberculosis.

(b) ~~At the time~~ *Within 30 days after the date* of termination and at 6 and 12 months after the date of termination, provide to the police officer or fireman a blood test *or other appropriate test* to screen for other contagious diseases, including, without limitation, hepatitis A, hepatitis B, hepatitis C and human immunodeficiency virus. If a blood test *or other appropriate test* administered pursuant to this paragraph and provided to the employer reveals that the police officer or fireman has any other contagious disease or the antibodies associated with a contagious disease, the police officer or fireman is eligible, during his lifetime, to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for such a disease and any additional diseases or conditions that are associated with or result from the contagious disease.

4. The former employer of a police officer or a salaried or volunteer fireman shall pay all the costs associated with providing skin and blood tests *and other appropriate tests* required pursuant to subsection 3.

5. As used in this section, the term “battery” includes, without limitation, the intentional propelling or placing, or the causing to be propelled or placed, of any human excrement or bodily fluid upon the person of an employee.

Sec. 4. Chapter 617 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if an employee has hepatitis, the disease is conclusively presumed to have arisen out of and in the course of his employment if the employee has been continuously employed for 5 years or more as a full-time salaried fireman or emergency medical attendant in this state before the date of any temporary or permanent disability or death resulting from the hepatitis.

2. Compensation awarded to a fireman or an emergency medical attendant, or to the dependents of such a person, for hepatitis pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

3. A salaried fireman or an emergency medical attendant shall submit to a blood test to screen for hepatitis upon employment, upon the commencement of coverage and thereafter on an annual basis during his employment. All blood tests required pursuant to this section must be paid for by the employer.

4. The provisions of this section:

(a) Except as otherwise provided in paragraph (b), do not apply to a fireman or emergency medical attendant who is diagnosed with hepatitis upon employment.

(b) Apply to a fireman or emergency medical attendant who is diagnosed with hepatitis upon employment if, during the employment or within 1 year after the last day of the employment, he is diagnosed with a different strain of hepatitis.

(c) Apply to a fireman or emergency medical attendant who is diagnosed with hepatitis after the termination of the employment if the diagnosis is made within 1 year after the last day of the employment.

5. A fireman or an emergency medical attendant who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a fireman or an emergency medical attendant, may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.

6. As used in this section:

(a) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS, whose primary duties of employment are the provision of emergency medical services.

(b) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.

Sec. 5. 1. Notwithstanding any provision of section 4 of this act, a person who submits to a blood test to screen for hepatitis on or after October 1, 2001, but on or before November 1, 2001, and who, on October 1, 2001:

(a) Is employed as a full-time salaried fireman or emergency medical attendant in this state; or

(b) Had at any time been continuously employed for 5 years or more as a full-time salaried fireman or emergency medical attendant in this state,

shall be deemed to be in compliance with all blood testing that would otherwise be required by subsection 3 of section 4 of this act through the date of the blood test.

2. Notwithstanding the provisions of section 4 of this act, a person who, on October 1, 2001, is employed as a full-time salaried fireman or emergency medical attendant in this state shall submit to a blood test to screen for hepatitis on or before November 1, 2001. The blood test must be paid for by the employer of the person. If a person fails to submit to a blood test required by this subsection, the conclusive presumption relating to hepatitis otherwise created by section 4 of this act shall be deemed with regard to that person and for the purposes of section 4 of this act to be a rebuttable presumption that may only be rebutted by clear and convincing evidence that the hepatitis was not contracted during the period in which the person was employed as a full-time salaried firefighter or emergency medical attendant.

3. If:

(a) A blood test taken pursuant to this section reveals that a person has hepatitis; and

(b) Before taking the blood test, the person had at any time been continuously employed for 5 years or more as a full-time salaried fireman or emergency medical attendant in this state,

the person is entitled to a rebuttable presumption that the hepatitis arose out of and in the course of his employment and is compensable in accordance with section 4 of this act if he, before January 1, 2002, files a claim for compensation pursuant to chapter 617 of NRS. The presumption may only be rebutted by clear and convincing evidence that the hepatitis was not contracted during the period in which the person was employed as a full-time salaried firefighter or emergency medical attendant.

4. As used in this section:

(a) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS, whose primary duties of employment are the provision of emergency medical services.

(b) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.

Sec. 6. The amendatory provisions of this act do not apply to any person who, on October 1, 2001, is receiving compensation for hepatitis pursuant to chapters 616A to 616D, inclusive, of NRS. As used in this section, “hepatitis” includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.