

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A.B. 313

ASSEMBLY BILL NO. 313—ASSEMBLYMEN OCEGUERA, 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

MARCH 9, 2001

JOINT SPONSORS: SENATORS AMODEI, CARLTON, TITUS, PORTER, CARE, COFFIN, JACOBSEN, JAMES, MATHEWS, MCGINNESS, NEAL, RAGGIO, RAWSON, RHOADS, SCHNEIDER, SHAFFER, WASHINGTON AND WIENER

Referred to Committee on Commerce and Labor

SUMMARY—Creates conclusive presumption that hepatitis is occupational disease for certain employees. (BDR 53-843)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to occupational diseases; creating a conclusive presumption that hepatitis is an occupational disease for certain firemen and emergency medical attendants; establishing requirements of eligibility for the statutory presumption; 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:

- 1 **Section 1.** NRS 616A.035 is hereby amended to read as follows:
- 2 616A.035 1. “Accident benefits” means medical, surgical, hospital
- 3 or other treatments, nursing, medicine, medical and surgical supplies,
- 4 crutches and apparatuses, including prosthetic devices.
- 5 2. The term includes:



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1 (a) Medical benefits as defined by NRS 617.130;
2 (b) Preventive treatment administered as a precaution to an employee
3 who is exposed to a contagious disease while providing medical services,
4 including emergency medical care, in the course and scope of his
5 employment; ~~and~~

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

9 (1) Upon battery by an offender; or

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

12 if the exposure is documented by the creation and maintenance of a report
13 concerning the exposure pursuant to *paragraph (a) of* subsection 1 of NRS
14 616C.052 ~~+~~; *and*

15 *(d) Preventive treatment for hepatitis administered as a precaution to*
16 *a full-time salaried fireman or an emergency medical attendant employed*
17 *in this state, or to a person who is acting as a volunteer fireman in this*
18 *state and is entitled to the benefits of this chapter and chapters 616B,*
19 *616C and 616D of NRS pursuant to the provisions of NRS 616A.145.*

20 3. The term does not include:

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

22 (b) Membership in an athletic or health club;

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

24 (d) The costs of operating a motor vehicle provided pursuant to NRS
25 616C.245, fees related to the operation or licensing of the motor vehicle or
26 insurance for the motor vehicle.

27 4. As used in this section : ~~the term~~

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

31 (b) *"Emergency medical attendant" means a person licensed as an*
32 *attendant or certified as an emergency medical technician, intermediate*
33 *emergency medical technician or advanced emergency medical*
34 *technician pursuant to chapter 450B of NRS.*

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

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

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

42 616A.265 1. "Injury" or "personal injury" means a sudden and
43 tangible happening of a traumatic nature, producing an immediate or
44 prompt result which is established by medical evidence, including injuries
45 to prosthetic devices. Any injury sustained by an employee while engaging
46 in an athletic or social event sponsored by his employer shall be deemed
47 not to have arisen out of or in the course of employment unless the
48 employee received remuneration for participation in the event.

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



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

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

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

12 (1) Upon battery by an offender; or

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

15 shall be deemed to be an injury by accident sustained by the police officer
16 or fireman arising out of and in the course of his employment if the
17 exposure is documented by the creation and maintenance of a report
18 concerning the exposure pursuant to *paragraph (a) of* subsection 1 of NRS
19 616C.052. As used in this paragraph, the term "battery" includes, without
20 limitation, the intentional propelling or placing, or the causing to be
21 propelled or placed, of any human excrement or bodily fluid upon the
22 person of an employee.

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

24 616C.052 1. *Except as otherwise provided in section 4 of this act:*

25 (a) If a police officer or a salaried or volunteer fireman is exposed to a
26 contagious disease:

27 ~~(a)~~ (1) Upon battery by an offender; or

28 ~~(b)~~ (2) While performing the duties of a police officer or
29 fireman,

30 the employer of the police officer or fireman shall create and maintain a
31 report concerning the exposure that includes, without limitation, the name
32 of each police officer or fireman, as applicable, who was exposed to the
33 contagious disease and the name of each person, if any, to whom the police
34 officer or fireman was exposed.

35 ~~(2)~~ (b) If the employment of a police officer or a salaried or volunteer
36 fireman is terminated, voluntarily or involuntarily, the employer of the
37 police officer or fireman shall, ~~at the time~~ *within 30 days after the date*
38 of termination and at 6 and 12 months after the date of termination, provide
39 to the police officer or fireman a blood test *or other appropriate test* to
40 screen for contagious diseases, including, without limitation, hepatitis A,
41 hepatitis B, hepatitis C, tuberculosis and human immunodeficiency virus. If
42 a blood test *or other appropriate test* administered pursuant to this
43 subsection and provided to the employer reveals that a former police
44 officer or a former salaried or volunteer fireman has a contagious disease
45 or the antibodies associated with a contagious disease, the police officer or
46 fireman is eligible, during his lifetime, to receive compensation for such a
47 disease and any additional diseases or conditions that are associated with or
48 result from the contagious disease pursuant to chapters 616A to 617,
49 inclusive, of NRS. The former employer of a police officer or a salaried or



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1 volunteer fireman shall pay all the costs associated with providing blood
2 tests *and other appropriate tests* required pursuant to this subsection.

3 ~~13-1~~ 2. As used in this section, the term "battery" includes, without
4 limitation, the intentional propelling or placing, or the causing to be
5 propelled or placed, of any human excrement or bodily fluid upon the
6 person of an employee.

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

9 *1. Notwithstanding any other provision of this chapter and except as*
10 *otherwise provided in this section, if an employee has hepatitis, the*
11 *disease is conclusively presumed to have arisen out of and in the course*
12 *of his employment if, before the date of any temporary or permanent*
13 *disability or death resulting from the hepatitis, the employee:*

14 *(a) Has been continuously employed for 5 years or more as a full-time*
15 *salaried fireman or emergency medical attendant in this state; or*

16 *(b) Has been acting as a volunteer fireman in this state continuously*
17 *for 5 years or more and is entitled to the benefits of chapters 616A to*
18 *616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145.*

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

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

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

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

31 *4. The provisions of this section:*

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

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

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

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

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

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



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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.*

(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 is acting as a volunteer fireman in this state and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; 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, or had at any time acted as a volunteer fireman in this state continuously for 5 years or more and was entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145, 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. 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, or had at any time acted as a volunteer fireman in this state continuously for 5 years or more and was entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145, the person is entitled to the conclusive presumption relating to hepatitis created by section 4 of this act if he, before January 1, 2002, files a claim for compensation pursuant to chapter 617 of NRS.

3. *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.*

(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



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- 1 additional diseases or conditions that are associated with or result from
- 2 hepatitis A, hepatitis B or hepatitis C.

