

## (REPRINTED WITH ADOPTED AMENDMENTS)

## THIRD 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, HETRICK, 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 statutory presumptions 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 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:

- 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.*

18 3. The term does not include:

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

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

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

22 (d) The costs of operating a motor vehicle provided pursuant to NRS  
23 616C.245, fees related to the operation or licensing of the motor vehicle or  
24 insurance for the motor vehicle.

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

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

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

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

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

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

41 616A.265 1. "Injury" or "personal injury" means a sudden and  
42 tangible happening of a traumatic nature, producing an immediate or  
43 prompt result which is established by medical evidence, including injuries  
44 to prosthetic devices. Any injury sustained by an employee while engaging  
45 in an athletic or social event sponsored by his employer shall be deemed  
46 not to have arisen out of or in the course of employment unless the  
47 employee received remuneration for participation in the event.

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



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

27 (a) Upon battery by an offender; or

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

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

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

47 (a) At the time of termination and at 3 months after the date of  
48 termination, provide to the police officer or fireman a purified protein  
49 derivative skin test to screen for exposure to tuberculosis, unless the police



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1 officer or fireman previously submitted to such a test and tested positive  
2 for exposure to tuberculosis. Except as otherwise provided in paragraph (d)  
3 of subsection 2 of NRS 6161A.265, if a skin test administered pursuant to  
4 this paragraph and provided to the employer reveals that the police officer  
5 or fireman tested positive for exposure to tuberculosis, the police officer or  
6 fireman is eligible, during his lifetime, to receive compensation pursuant to  
7 chapters 616A to 617, inclusive, of NRS for tuberculosis and any  
8 additional diseases or conditions that are associated with or result from  
9 tuberculosis.

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

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

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

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

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

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

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

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

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



1     4. *The provisions of this section:*

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

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

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

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

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

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

20     6. *As used in this section:*

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

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

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

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

35     (b) Had at any time been continuously employed for 5 years or more as  
36 a full-time salaried fireman or emergency medical attendant in this  
37 state,  
38 shall be deemed to be in compliance with all blood testing that would  
39 otherwise be required by subsection 3 of section 4 of this act through the  
40 date of the blood test.

41     2. Notwithstanding the provisions of section 4 of this act, a person  
42 who, on October 1, 2001, is employed as a full-time salaried fireman or  
43 emergency medical attendant in this state shall submit to a blood test to  
44 screen for hepatitis on or before November 1, 2001. The blood test must be  
45 paid for by the employer of the person. If a person fails to submit to a  
46 blood test required by this subsection, the conclusive presumption relating  
47 to hepatitis otherwise created by section 4 of this act shall be deemed with  
48 regard to that person and for the purposes of section 4 of this act to be a  
49 rebuttable presumption that may only be rebutted by clear and convincing



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1 evidence that the hepatitis was not contracted during the period in which  
2 the person was employed as a full-time salaried firefighter or emergency  
3 medical attendant.

4 3. If:

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

7 (b) Before taking the blood test, the person had at any time been  
8 continuously employed for 5 years or more as a full-time salaried fireman  
9 or emergency medical attendant in this state,  
10 the person is entitled to a rebuttable presumption that the hepatitis arose out  
11 of and in the course of his employment and is compensable in accordance  
12 with section 4 of this act if he, before January 1, 2002, files a claim for  
13 compensation pursuant to chapter 617 of NRS. The presumption may only  
14 be rebutted by clear and convincing evidence that the hepatitis was not  
15 contracted during the period in which the person was employed as a full-  
16 time salaried firefighter or emergency medical attendant.

17 4. As used in this section:

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

23 (b) “Hepatitis” includes hepatitis A, hepatitis B, hepatitis C and any  
24 additional diseases or conditions that are associated with or result from  
25 hepatitis A, hepatitis B or hepatitis C.

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

