

SENATE BILL NO. 203—SENATOR MATHEWS

MARCH 21, 2005

Referred to Committee on Finance

**SUMMARY**—Revises various provisions relating to industrial injuries and occupational diseases of certain police officers and firefighters. (BDR 53-1078)

**FISCAL NOTE:** Effect on Local Government: May have Fiscal Impact.  
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 public employees; expanding the definition of “accident benefits” for purposes of industrial insurance to include preventive treatment for hepatitis administered as a precaution to certain police officers employed by State Government; revising provisions governing testing and compensation of certain police officers and firefighters for contagious diseases after termination of employment; including certain game wardens employed by State Government within the definition of “police officer” for various purposes relating to industrial injuries, occupational diseases and programs for public employees; creating a statutory presumption that hepatitis is an occupational disease for certain police officers employed by State Government; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, certain police officers employed by state and local  
2 government are entitled to additional rights and benefits under the workers’  
3 compensation system, including the right to compensation for lung diseases and  
4 heart diseases resulting from their employment. (NRS 616A.283, 617.135, 617.455,  
5 617.457) Under certain circumstances, those police officers may receive their  
6 normal salary for a limited period following a temporary total disability. (NRS  
7 281.153) If such a police officer is killed in the line of duty, his dependents may  
8 continue to receive coverage under the employee benefit program provided by his  
9 public employer. (NRS 287.021, 287.0477)



10 This bill amends existing law to add game wardens of the Department of  
11 Wildlife who have the powers of a peace officer to the list of police officers who  
12 are afforded such additional rights and benefits.

13 Under existing law, the employer of certain police officers and firefighters must  
14 create and maintain reports documenting exposures of those police officers and  
15 firefighters to contagious diseases. Upon termination of employment, the employer  
16 must provide each police officer or firefighter with appropriate tests to screen for  
17 contagious diseases. (NRS 616C.052) The Attorney General has given an opinion  
18 that an employer is not required to provide a police officer or firefighter with any  
19 tests to screen for contagious diseases upon termination of employment if the police  
20 officer or firefighter has not experienced any documented exposures to contagious  
21 diseases during his employment. (Att'y Gen. Op. 2000-33 (Nov. 30, 2000))

22 This bill requires an employer to provide a police officer or firefighter with  
23 appropriate tests to screen for contagious diseases upon termination of employment  
24 regardless of whether the police officer or firefighter has experienced any  
25 documented exposures to contagious diseases during his employment. However,  
26 this requirement does not apply if the police officer or firefighter has previously  
27 submitted to screening tests for a particular contagious disease and has tested  
28 positive for exposure to that contagious disease.

29 Under existing law, certain police officers employed by local government are  
30 entitled to accident benefits under the workers' compensation system for preventive  
31 treatment for exposure to hepatitis. (NRS 616A.035, 616C.245) If such a police  
32 officer suffers a temporary or permanent disability or dies from hepatitis, there is a  
33 conclusive presumption that the police officer or his dependents are entitled to  
34 compensation for the occupational disease if the police officer had been  
35 continuously employed in that capacity for at least 5 years before the date of the  
36 temporary or permanent disability or death. (NRS 617.485)

37 This bill extends the benefits and compensation regarding hepatitis to certain  
38 police officers who are employed by State Government.

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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  
2 follows:

3 616A.035 1. "Accident benefits" means medical, surgical,  
4 hospital or other treatments, nursing, medicine, medical and surgical  
5 supplies, crutches and apparatuses, including prosthetic devices.

6 2. The term includes:

7 (a) Medical benefits as defined by NRS 617.130;

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

12 (c) Preventive treatment administered as a precaution to a police  
13 officer or a salaried or volunteer fireman who:

14 (1) Was exposed to a contagious disease:

15 (I) Upon battery by an offender; or



(II) 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; or

(2) Tests positive for exposure to tuberculosis *or another contagious disease* under the circumstances described in *subsection 2 or 3 of* NRS 616C.052; and

(d) Preventive treatment for hepatitis administered as a precaution to a police officer, full-time salaried fireman or emergency medical attendant employed in this State. ~~[As used in this paragraph, "police officer" means a sheriff, deputy sheriff, officer of a metropolitan police department or city policeman.]~~

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:

(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:

(1) Tests to determine if an employee has contracted hepatitis or any other contagious disease to which he was exposed; and

(2) If an employee tests positive for exposure to tuberculosis under the circumstances described in NRS 616C.052, such medication and chest X rays as are recommended by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.



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

2     616A.265 1. "Injury" or "personal injury" means a sudden  
3 and tangible happening of a traumatic nature, producing an  
4 immediate or prompt result which is established by medical  
5 evidence, including injuries to prosthetic devices. Except as  
6 otherwise provided in subsection 3, any injury sustained by an  
7 employee while engaging in an athletic or social event sponsored by  
8 his employer shall be deemed not to have arisen out of or in the  
9 course of employment unless the employee received remuneration  
10 for participation in the event.

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

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

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

22     (c) Except as otherwise provided in paragraph (d), the exposure  
23 to a contagious disease of a police officer or a salaried or volunteer  
24 fireman who was exposed to the contagious disease:

25         (1) Upon battery by an offender; or

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

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

37     (d) If a police officer or a salaried or volunteer fireman tests  
38 positive for exposure to tuberculosis *or another contagious disease*  
39 under the circumstances described in subsection 2 or 3 of NRS  
40 616C.052, he shall be deemed to have sustained an injury by  
41 accident arising out of and in the course of his employment, unless  
42 the insurer can prove by a preponderance of the evidence that the  
43 exposure was not related to the employment of the police officer or  
44 fireman.



1        3. Any injury sustained by an employee of a school district  
2 while engaging in an athletic or social event shall be deemed to have  
3 arisen out of and in the course of his employment, whether or not  
4 the employee received remuneration for participation in the event,  
5 if:

6        (a) The event was sponsored by the school district, or the event  
7 was an extracurricular activity which was sponsored or organized by  
8 a student class, student group or student organization for an  
9 educational, recreational or charitable purpose and which was  
10 reasonably related to the employee's job with the school district;

11        (b) The employee participated in the event at the request of or  
12 with the concurrence of supervisory personnel, whether the request  
13 or concurrence was oral or written; and

14        (c) The employee participated in the event to enable the event to  
15 take place or to ensure the safety and well-being of any students of  
16 the school district.

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

18        616C.052 1. Except as otherwise provided in NRS 617.485,  
19 if a police officer or a salaried or volunteer fireman is exposed to a  
20 contagious disease:

21        (a) Upon battery by an offender; or

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

28        2. Except as otherwise provided in paragraph (d) of subsection  
29 2 of NRS 616A.265, if the results of a physical examination  
30 administered pursuant to NRS 617.455 or 617.457 to a police officer  
31 or a salaried or volunteer fireman after the commencement of his  
32 employment reveal that the police officer or fireman tested positive  
33 for exposure to tuberculosis, the police officer or fireman is eligible,  
34 during his lifetime, to receive compensation pursuant to chapters  
35 616A to 617, inclusive, of NRS for tuberculosis and any additional  
36 diseases or conditions that are associated with or result from  
37 tuberculosis.

38        3. Except as otherwise provided in NRS 617.485, if the  
39 employment of a police officer or a salaried or volunteer fireman is  
40 terminated, voluntarily or involuntarily, the employer of the police  
41 officer or fireman , *regardless of whether the police officer or*  
42 *fireman has been exposed to a contagious disease during his*  
43 *employment and regardless of whether the employer has created*  
44 *or maintained a report concerning any exposure of the police*



1 *officer or fireman to a contagious disease pursuant to subsection*  
2 *I, shall:*

3 (a) At the time of termination and at 3 months after the date of  
4 termination, provide to the police officer or fireman a purified  
5 protein derivative skin test to screen for exposure to tuberculosis,  
6 unless the police officer or fireman previously submitted to such a  
7 test and tested positive for exposure to tuberculosis. Except as  
8 otherwise provided in paragraph (d) of subsection 2 of NRS  
9 616A.265, if a skin test administered pursuant to this paragraph and  
10 provided to the employer reveals that the police officer or fireman  
11 tested positive for exposure to tuberculosis, the police officer or  
12 fireman is eligible, during his lifetime, to receive compensation  
13 pursuant to chapters 616A to 617, inclusive, of NRS for tuberculosis  
14 and any additional diseases or conditions that are associated with or  
15 result from tuberculosis.

16 (b) Within 30 days after the date of termination and at 6 and 12  
17 months after the date of termination, provide to the police officer or  
18 fireman a blood test or other appropriate test to screen for other  
19 contagious diseases, including, without limitation, hepatitis A,  
20 hepatitis B, hepatitis C and human immunodeficiency virus ~~[HIV]~~,  
21 *unless the police officer or fireman previously submitted to such a*  
22 *test for a contagious disease and tested positive for exposure to*  
23 *that contagious disease. Except as otherwise provided in*  
24 *paragraph (d) of subsection 2 of NRS 616A.265, if a blood test or*  
25 *other appropriate test administered pursuant to this paragraph and*  
26 *provided to the employer reveals that the police officer or fireman*  
27 *has any other contagious disease or the antibodies associated with a*  
28 *contagious disease, the police officer or fireman is eligible, during*  
29 *his lifetime, to receive compensation pursuant to chapters 616A to*  
30 *617, inclusive, of NRS for such a disease and any additional*  
31 *diseases or conditions that are associated with or result from the*  
32 *contagious disease.*

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

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

41 **Sec. 4.** NRS 617.135 is hereby amended to read as follows:

42 617.135 "Police officer" includes:

43 1. A sheriff, deputy sheriff, officer of a metropolitan police  
44 department or city policeman;



2. A chief, inspector, supervisor, commercial officer or trooper of the Nevada Highway Patrol ~~§~~ *Division of the Department of Public Safety*;

3. A chief, investigator or agent of the Investigation Division of the Department of Public Safety;

4. An officer or investigator of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles;

5. An investigator of the Division of Compliance Enforcement of the Department of Motor Vehicles;

6. A member of the police department of the University and Community College System of Nevada;

7. A:

(a) Uniformed employee of; or

(b) Forensic specialist employed by,

→ the Department of Corrections whose position requires regular and frequent contact with the offenders imprisoned and subjects the employee to recall in emergencies;

8. A parole and probation officer of the Division of Parole and Probation of the Department of Public Safety;

9. A forensic specialist or correctional officer employed by the Division of Mental Health and Developmental Services of the Department of Human Resources at facilities for mentally disordered offenders; ~~and~~

10. The State Fire Marshal, his assistant and his deputies ~~§~~ ;  
*and*

*11. A game warden of the Department of Wildlife who has the powers of a peace officer pursuant to NRS 289.280.*

**Sec. 5.** NRS 617.485 is hereby amended to read as follows:

617.485 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 police officer, 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 police officer, fireman or 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.



1 3. A police officer, salaried fireman or emergency medical  
2 attendant shall:

3 (a) Submit to a blood test to screen for hepatitis C upon  
4 employment, upon the commencement of coverage and thereafter on  
5 an annual basis during his employment.

6 (b) Submit to a blood test to screen for hepatitis A and hepatitis  
7 B upon employment, upon the commencement of coverage and  
8 thereafter on an annual basis during his employment, except that a  
9 police officer, salaried fireman or emergency medical attendant is  
10 not required to submit to a blood test to screen for hepatitis A and  
11 hepatitis B on an annual basis during his employment if he has been  
12 vaccinated for hepatitis A and hepatitis B upon employment or at  
13 other medically appropriate times during his employment. Each  
14 employer shall provide a police officer, salaried fireman or  
15 emergency medical attendant with the opportunity to be vaccinated  
16 for hepatitis A and hepatitis B upon employment and at other  
17 medically appropriate times during his employment.

18 4. All blood tests required pursuant to this section and all  
19 vaccinations provided pursuant to this section must be paid for by  
20 the employer.

21 5. The provisions of this section:

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

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

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

33 6. A police officer, fireman or emergency medical attendant  
34 who is determined to be:

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

37 (b) Incapable of performing, with or without remuneration, work  
38 as a police officer, fireman or emergency medical attendant,

39 ➤ may elect to receive the benefits provided pursuant to NRS  
40 616C.440 for a permanent total disability.

41 7. As used in this section:

42 (a) "Emergency medical attendant" means a person licensed as  
43 an attendant or certified as an emergency medical technician,  
44 intermediate emergency medical technician or advanced emergency  
45 medical technician pursuant to chapter 450B of NRS, whose





1 primary duties of employment are the provision of emergency  
2 medical services.

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

6 ~~[(c) "Police officer" means a sheriff, deputy sheriff, officer of a  
7 metropolitan police department or city policeman.]~~

8 **Sec. 6.** 1. Notwithstanding any provision of NRS 617.485, a  
9 person who submits to a blood test to screen for hepatitis on or after  
10 October 1, 2005, but on or before September 30, 2006, and who, on  
11 October 1, 2005:

12 (a) Is employed as a police officer in this State; or

13 (b) Had at any time been continuously employed for 5 years or  
14 more as a police officer in this State,

15 ➔ shall be deemed to be in compliance with all blood testing that  
16 would otherwise be required by subsection 3 of NRS 617.485  
17 through the date of the blood test.

18 2. Notwithstanding the provisions of NRS 617.485, a person  
19 who, on October 1, 2005, is employed as a police officer in this  
20 State shall submit to a blood test to screen for hepatitis on or before  
21 September 30, 2006. The blood test must be paid for by the  
22 employer of the person. If a person fails to submit to a blood test  
23 required by this subsection, the conclusive presumption relating to  
24 hepatitis otherwise created by NRS 617.485 shall be deemed with  
25 regard to that person and for the purposes of NRS 617.485 to be a  
26 rebuttable presumption that may only be rebutted by clear and  
27 convincing evidence that the hepatitis was not contracted during the  
28 period in which the person was employed as a police officer.

29 3. If:

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

32 (b) Before taking the blood test, the person had at any time been  
33 continuously employed for 5 years or more as a police officer in this  
34 State,

35 ➔ the person is entitled to a rebuttable presumption that the  
36 hepatitis arose out of and in the course of his employment and is  
37 compensable in accordance with NRS 617.485 if he, before  
38 January 1, 2007, files a claim for compensation pursuant to chapter  
39 617 of NRS. The presumption may only be rebutted by clear and  
40 convincing evidence that the hepatitis was not contracted during the  
41 period in which the person was employed as a police officer in this  
42 State.



1       4. As used in this section:

2       (a) “Hepatitis” includes hepatitis A, hepatitis B, hepatitis C and  
3 any additional diseases or conditions that are associated with or  
4 result from hepatitis A, hepatitis B or hepatitis C.

5       (b) “Police officer” has the meaning ascribed to it in NRS  
6 617.135, as amended by section 4 of this act, except that the term  
7 does not include a sheriff, deputy sheriff, officer of a metropolitan  
8 police department or city policeman.

9       **Sec. 7.** The amendatory provisions of this act do not apply to  
10 any person who, on October 1, 2005, is receiving compensation for  
11 hepatitis pursuant to chapters 616A to 616D, inclusive, of NRS. As  
12 used in this section, “hepatitis” includes hepatitis A, hepatitis B,  
13 hepatitis C and any additional diseases or conditions that are  
14 associated with or result from hepatitis A, hepatitis B or hepatitis C.





