

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; making an appropriation; 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.

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.



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. Except as otherwise provided in subsection 3, 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) Except as otherwise provided in paragraph (d), 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.

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



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

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

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

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

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

616C.052 1. Except as otherwise provided in NRS 617.485 **and 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. Except as otherwise provided in 617.485 **and 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, **regardless of whether the police officer or fireman has been exposed to a contagious disease during his employment and regardless of whether the employer has created or maintained a report concerning any**



exposure of the police officer or fireman to a contagious disease pursuant to subsection 1, 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) 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 ~~[-H]~~, *unless the police officer or fireman previously submitted to such a test for a contagious disease and tested positive for exposure to that contagious disease. Except as otherwise provided in paragraph (d) of subsection 2 of NRS 616A.265*, 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 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



1 of and in the course of his employment if the employee has been
2 continuously employed for 5 years or more as a police officer or a
3 sheriff, deputy sheriff, officer of a metropolitan police department
4 or city policeman in this State before the date of any temporary or
5 permanent disability or death resulting from the hepatitis.

6 2. Compensation awarded to a police officer, or to the
7 dependents of a police officer, for hepatitis pursuant to this section
8 must include:

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

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

13 3. A police officer shall:

14 (a) Submit to a blood test to screen for hepatitis C upon
15 employment and upon the commencement of coverage.

16 (b) If the employer of the police officer provides screening for
17 hepatitis C for police officers on an annual basis, submit to a
18 blood test to screen for hepatitis C thereafter on an annual basis
19 during his employment.

20 (c) If the employer of the police officer provides screening for
21 hepatitis A and hepatitis B for police officers, submit to a blood
22 test to screen for hepatitis A and hepatitis B upon employment,
23 upon the commencement of coverage and thereafter on an annual
24 basis during his employment, except that a police officer is not
25 required to submit to a blood test to screen for hepatitis A and
26 hepatitis B on an annual basis during his employment if he has
27 been vaccinated for hepatitis A and hepatitis B upon employment
28 or at other medically appropriate times during his employment.
29 Each employer shall provide a police officer with the opportunity
30 to be vaccinated for hepatitis A and hepatitis B upon employment
31 and at other medically appropriate times during his employment.

32 4. All blood tests required pursuant to this section and all
33 vaccinations provided pursuant to this section must be paid for by
34 the employer.

35 5. The provisions of this section:

36 (a) Except as otherwise provided in paragraph (b), do not
37 apply to a police officer who is diagnosed with hepatitis upon
38 employment.

39 (b) Apply to a police officer who is diagnosed with hepatitis
40 upon employment if, during the employment or within 1 year after
41 the last day of the employment, he is diagnosed with a different
42 strain of hepatitis.

43 (c) Apply to a police officer who is diagnosed with hepatitis
44 after the termination of the employment if the diagnosis is made
45 within 1 year after the last day of the employment.



6. *A police officer 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 police officer,*
→ *may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.*

7. *As used in this section:*

(a) *“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.*

(b) *“Police officer” means any police officer other than a sheriff, deputy sheriff, officer of a metropolitan police department or city policeman.*

Sec. 5. NRS 617.135 is hereby amended to read as follows:

617.135 “Police officer” includes:

1. A sheriff, deputy sheriff, officer of a metropolitan police 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. 6. 1. There is hereby appropriated from the State General Fund to the Risk Management Division of the Department of Administration for blood tests to screen for hepatitis C pursuant to section 4 of this act:

For the Fiscal Year 2005-2006..... \$61,845

For the Fiscal Year 2006-2007..... \$6,042

2. The sums appropriated by subsection 1 are available for either fiscal year. Any balance of those sums must not be committed for expenditure after June 30, 2007, and must be reverted to the State General Fund on or before September 21, 2007.

Sec. 7. 1. There is hereby appropriated from the Highway Fund to the Risk Management Division of the Department of Administration for blood tests to screen for hepatitis C pursuant to section 4 of this act:

For the Fiscal Year 2005-2006..... \$13,680

For the Fiscal Year 2006-2007..... \$1,026

2. The sums appropriated by subsection 1 are available for either fiscal year. Any balance of those sums must not be committed for expenditure after June 30, 2007, and must be reverted to the Highway Fund on or before September 21, 2007.

Sec. 8. 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, 2005, but on or before September 30, 2006, and who, on October 1, 2005:

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

(b) Had at any time been continuously employed for 5 years or more as a police officer or a sheriff, deputy sheriff, officer of a metropolitan police department or city policeman 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, 2005, is employed as a police officer in this State shall submit to a blood test to screen for hepatitis C on or before September 30, 2006. 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 C was not contracted during the period in which the person was employed as a police officer.



1 3. If:

2 (a) A blood test taken pursuant to this section indicates that a
3 person has hepatitis C; and

4 (b) Before taking the blood test, the person had at any time been
5 continuously employed for 5 years or more as a police officer or a
6 sheriff, deputy sheriff, officer of a metropolitan police department or
7 city policeman in this State,

8 ➔ the person is entitled to a rebuttable presumption that the
9 hepatitis C arose out of and in the course of his employment and is
10 compensable in accordance with section 4 of this act if he, before
11 January 1, 2007, files a claim for compensation pursuant to chapter
12 617 of NRS. The presumption may only be rebutted by clear and
13 convincing evidence that the hepatitis C was not contracted during
14 the period in which the person was employed as a police officer or a
15 sheriff, deputy sheriff, officer of a metropolitan police department or
16 city policeman in this State.

17 4. As used in this section:

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

21 (b) "Police officer" has the meaning ascribed to it in NRS
22 617.135, as amended by section 5 of this act, except that the term
23 does not include a sheriff, deputy sheriff, officer of a metropolitan
24 police department or city policeman.

25 **Sec. 9.** The amendatory provisions of this act do not apply to
26 any person who, on October 1, 2005, is receiving compensation for
27 hepatitis pursuant to chapters 616A to 616D, inclusive, of NRS. As
28 used in this section, "hepatitis" includes hepatitis A, hepatitis B,
29 hepatitis C and any additional diseases or conditions that are
30 associated with or result from hepatitis A, hepatitis B or hepatitis C.



