

Assembly Bill No. 141–Assemblymen Goicoechea;  
Ellison and Hansen

CHAPTER.....

AN ACT relating to occupational diseases; expanding the frequency with which certain volunteer firefighters must submit to physical examinations to receive workers' compensation coverage for certain occupational diseases; revising provisions relating to the procedure for scheduling such physical examinations under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, an employee who contracts an occupational disease arising out of and in the course of his or her employment is generally entitled to receive benefits for workers' compensation. (Chapter 617 of NRS) Specifically, if an employee has been employed for 2 years or more as a full-time salaried firefighter, arson investigator or police officer or has acted for 2 years or more as a volunteer firefighter who is entitled to benefits for workers' compensation, any disease of the lungs caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases arising out of and in the course of employment is an occupational disease for which the employee is entitled to receive workers' compensation. To receive coverage for such an occupational disease, the employee must submit to a physical examination upon initial employment, upon commencement of the coverage, once every even-numbered year until the employee is 40 years of age or older and on an annual basis thereafter during his or her employment. (NRS 617.455) **Section 1** of this bill requires a volunteer firefighter to submit to a physical examination upon employment, commencement of coverage and once every 3 years after commencement of coverage until the volunteer firefighter is 50 years of age or older and once every 2 years thereafter instead of on an annual basis.

Existing law provides similar coverage for a volunteer firefighter who contracts a disease of the heart and who, for 5 years or more, has served continuously as a volunteer firefighter in Nevada. To receive coverage for such an occupational disease, the volunteer firefighter is required to submit to a physical examination upon initial employment, once every 3 years after the initial examination until he or she reaches the age of 50 years and once each year if he or she is 50 years of age or older. (NRS 617.457) **Section 2** of this bill requires a volunteer firefighter to submit to a physical examination upon employment, upon commencement of coverage and once every 3 years after commencement of the coverage until the volunteer firefighter is 50 years of age or older and once every 2 years thereafter instead of once each year. **Section 2** also requires employers to follow certain procedures when scheduling physical examinations for volunteer firefighters.

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



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

**Section 1.** NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter 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

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every ~~[even-numbered year]~~ **2 years** until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. ~~[A thorough test of the functioning of the lungs is not required for a volunteer firefighter.]~~ ***Each volunteer firefighter who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to:***

***(a) A physical examination upon employment and upon commencement of the coverage; and***

***(b) The making of an X-ray film of the volunteer firefighter's lungs once every 3 years after the physical examination that is required upon commencement of the coverage,***

***↪ until the volunteer firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment. As used in this subsection, "physical examination" includes the making of an X-ray film of the volunteer firefighter's lungs but excludes a thorough test of the functioning of his or her lungs.***



4. All physical examinations required pursuant to ~~[subsection]~~ *subsections 2 and 3* must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for 5 years or more before the date of disablement.

6. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after ~~[the—annual]~~ *a physical* examination *required pursuant to subsection 2 or 3* excludes the employee from the benefits of this section if the correction is within the ability of the employee.

7. A person 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 firefighter, police officer or arson investigator,

➔ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

**Sec. 2.** NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 5 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment.

2. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

3. Except as otherwise provided in subsection 4, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon



commencement of coverage and thereafter on an annual basis during his or her employment.

4. *[A] During the period in which a volunteer firefighter is continuously on active status on the roster of a volunteer fire department, a physical examination for [a] the volunteer firefighter is required [upon initial] :*

(a) *Upon* employment ;

(b) *Upon commencement of coverage;* and ~~[once]~~

(c) *Once* every 3 years after the ~~[initial]~~ *physical* examination *that is required pursuant to paragraph (b),*

↳ until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once ~~[each year.]~~ *every 2 years during his or her employment.*

5. The employer of the volunteer firefighter is responsible for scheduling the physical examination. *The employer shall mail to the volunteer firefighter a written notice of the date, time and place of the physical examination at least 10 days before the date of the physical examination and shall obtain, at the time of mailing, a certificate of mailing issued by the United States Postal Service.*

6. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection 5 excludes the volunteer firefighter from the benefits of this section.

7. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and

(b) Is 50 years of age or older on the date of his or her application.

8. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection 7;

(b) Is declared physically fit to perform the duties required of a firefighter; and

(c) Becomes a volunteer with the volunteer fire department.

9. Except as otherwise provided in subsection 7, all physical examinations required pursuant to subsections 3 and 4 must be paid for by the employer.



10. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to ~~[the—annual]~~ *a physical examination required pursuant to subsection 3 or 4* excludes the employee from the benefits of this section if the correction is within the ability of the employee.

11. A person 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 firefighter, arson investigator or police officer,

➡ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

12. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

