

SENATE BILL NO. 153—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

FEBRUARY 16, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to occupational diseases.
(BDR 53-635)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to occupational diseases; revising the circumstances under which certain occupational diseases are conclusively or rebuttably presumed to arise out of and in the course of employment; revising provisions governing the compensability of certain diseases of the heart; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that certain diseases contracted by certain police officers, firefighters or other employees are, for purposes of industrial insurance claims, conclusively or rebuttably presumed to be occupationally related if the employee has served a certain number of years in the profession before contracting the disease. (NRS 617.453, 617.455, 617.457, 617.485, 617.487) **Sections 1-5** of this bill limit these presumptions to employees or volunteers who are actively employed or volunteering in the profession at the time of diagnosis. **Section 3** also provides that certain diseases of the heart, when suffered by a volunteer firefighter, must be diagnosed and result in either temporary or permanent disability or death during the course of service of the volunteer firefighter in order to be compensable as an occupational disease.

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

Section 1. NRS 617.453 is hereby amended to read as follows:
617.453 1. Notwithstanding any other provision of this
chapter, cancer, resulting in either temporary or permanent



* S B 1 5 3 *

disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for 5 years or more, has been:

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

(2) 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; and

(b) It is demonstrated that:

(1) The person was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen is reasonably associated with the disabling cancer.

2. With respect to a person who, for 5 years or more, has been employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

(e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or hematopoietic cancer.

(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are



1 reasonably associated with basal cell carcinoma, squamous cell
2 carcinoma and malignant melanoma.

3 (i) Acrylonitrile, benzene and formaldehyde shall be deemed to
4 be known carcinogens that are reasonably associated with prostate
5 cancer.

6 (j) Diesel exhaust, soot and polychlorinated biphenyls shall be
7 deemed to be known carcinogens that are reasonably associated with
8 testicular cancer.

9 (k) Diesel exhaust, benzene and X-ray radiation shall be deemed
10 to be known carcinogens that are reasonably associated with thyroid
11 cancer.

12 3. The provisions of subsection 2 do not create an exclusive list
13 and do not preclude any person from demonstrating, on a case-by-
14 case basis for the purposes of paragraph (b) of subsection 1, that a
15 substance is a known carcinogen that is reasonably associated with a
16 disabling cancer.

17 4. Compensation awarded to the employee or his or her
18 dependents for disabling cancer pursuant to this section must
19 include:

20 (a) Full reimbursement for related expenses incurred for medical
21 treatments, surgery and hospitalization in accordance with the
22 schedule of fees and charges established pursuant to NRS 616C.260
23 or, if the insurer has contracted with an organization for managed
24 care or with providers of health care pursuant to NRS 616B.527, the
25 amount that is allowed for the treatment or other services under that
26 contract; and

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

29 5. Disabling cancer is presumed to have developed or
30 manifested itself out of and in the course of the employment of any
31 firefighter described in this section ***who has been employed in a***
32 ***full-time continuous, uninterrupted and salaried occupation as a***
33 ***firefighter for 5 years or more before the date of disablement.*** This
34 rebuttable presumption applies to disabling cancer diagnosed ~~after~~
35 ~~the termination of the person's employment if the diagnosis occurs~~
36 ~~within a period, not to exceed 60 months, which begins with the last~~
37 ~~date the employee actually worked in the qualifying capacity and~~
38 ~~extends for a period calculated by multiplying 3 months by the~~
39 ~~number of full years of his or her employment. This rebuttable~~
40 ~~presumption~~ ***during the course of that employment and*** must
41 control the awarding of benefits pursuant to this section unless
42 evidence to rebut the presumption is presented.

43 6. The provisions of this section do not create a conclusive
44 presumption.



Sec. 2. 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 2 years until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. 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 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 ~~if~~ *if the disease is diagnosed and causes the disablement during the course of that employment.*

6. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after 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. 3. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart *that are diagnosed and cause disablement during the course of the employment* 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~~ *that are diagnosed and result* in either temporary or permanent disability or death ~~if~~ *during the course of service of a volunteer firefighter* 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. 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 the volunteer firefighter is required:

(a) Upon employment;

(b) Upon commencement of coverage; and

(c) Once every 3 years after the 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 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 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.

Sec. 4. 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 or her employment if ~~the~~:

(a) *The* employee has been continuously employed for 5 years or more as a police officer, full-time salaried firefighter or emergency medical attendant in this State before the date of any temporary or permanent disability or death resulting from the hepatitis ~~H~~; and

(b) *The hepatitis was diagnosed during the course of that employment.*

2. Compensation awarded to a police officer, firefighter 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.

3. A police officer, salaried firefighter or emergency medical attendant shall:

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

(b) Submit to a blood test to screen for hepatitis A and hepatitis B upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment, except that a police officer, salaried firefighter or emergency medical attendant is not required to submit to a blood test to screen for hepatitis A and hepatitis B on an annual basis during his or her employment if he or she has been vaccinated for hepatitis A and hepatitis B upon employment or at other medically appropriate times during his or her employment. Each employer shall provide a police officer, salaried firefighter or emergency medical attendant with the opportunity to be vaccinated for hepatitis A and hepatitis B



1 upon employment and at other medically appropriate times during
2 his or her employment.

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

6 5. The provisions of this section:

7 (a) Except as otherwise provided in paragraph (b), do not apply
8 to a police officer, firefighter or emergency medical attendant who
9 is diagnosed with hepatitis upon employment.

10 (b) Apply to a police officer, firefighter or emergency medical
11 attendant who is diagnosed with hepatitis upon employment if,
12 during the employment, ~~for within 1 year after the last day of the~~
13 ~~employment,~~ he or she is diagnosed with a different strain of
14 hepatitis.

15 ~~[(c) Apply to a police officer, firefighter or emergency medical~~
16 ~~attendant who is diagnosed with hepatitis after the termination of the~~
17 ~~employment if the diagnosis is made within 1 year after the last day~~
18 ~~of the employment.]~~

19 6. A police officer, firefighter or emergency medical attendant
20 who is determined to be:

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

23 (b) Incapable of performing, with or without remuneration, work
24 as a police officer, firefighter or emergency medical attendant,

25 ➤ may elect to receive the benefits provided pursuant to NRS
26 616C.440 for a permanent total disability.

27 7. As used in this section:

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

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

36 (c) "Police officer" means a sheriff, deputy sheriff, officer of a
37 metropolitan police department or city police officer.

38 **Sec. 5.** NRS 617.487 is hereby amended to read as follows:

39 617.487 1. Notwithstanding any other provision of this
40 chapter and except as otherwise provided in this section, if an
41 employee has hepatitis, the disease is conclusively presumed to have
42 arisen out of and in the course of his or her employment if ~~the~~ :

43 (a) *The* employee has been continuously employed for 5 years
44 or more as a police officer or a sheriff, deputy sheriff, officer of a
45 metropolitan police department or city police officer in this State



1 before the date of any temporary or permanent disability or death
2 resulting from the hepatitis ~~H~~; and

3 *(b) The hepatitis was diagnosed during the course of that*
4 *employment.*

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

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

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

12 3. A police officer shall:

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

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

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

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

34 5. The provisions of this section:

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

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

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

45 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 police officer.

Sec. 6. The amendatory provisions of this act apply to claims for compensation for occupational diseases filed pursuant to chapter 617 of NRS on or after the effective date of this act.

Sec. 7. This act becomes effective upon passage and approval.

