

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.

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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; revising the circumstances under which certain occupational diseases are conclusively presumed to arise out of and in the course of employment; limiting the compensation to which a person is entitled to receive for certain occupational diseases; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that certain diseases of the lungs or heart contracted by certain police officers, firefighters or other employees are, for purposes of industrial insurance claims, conclusively presumed to be occupationally related if the employee has served a certain number of years in the profession before contracting the disease. (NRS 617.455, 617.457) **Sections 2 and 3** of this bill limit the period in which certain employees may claim these presumptions. **Sections 2 and 3** also provide that a person who files a claim for the disease after he or she retires from employment as a police officer, firefighter or arson investigator is not entitled to receive any compensation for that disease other than medical benefits. **Sections 2.5 and 3.5** of this bill prevent certain persons who use tobacco products or fail to follow a physician's prescribed plan of care from claiming these presumptions.

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

Section 1. (Deleted by amendment.)



* S B 1 5 3 R 2 *

1 **Sec. 1.5.** NRS 617.454 is hereby amended to read as follows:
2 617.454 1. Any physical examination administered pursuant
3 to NRS 617.455 or 617.457 must include:

4 (a) A thorough test of the functioning of the hearing of the
5 employee; and
6 (b) A purified protein derivative skin test to screen for exposure
7 to tuberculosis.

8 2. Except as otherwise provided in subsection ~~7~~ 8 of NRS
9 617.457, the tests required by this section must be paid for by the
10 employer.

11 **Sec. 2.** NRS 617.455 is hereby amended to read as follows:

12 617.455 1. Notwithstanding any other provision of this
13 chapter, diseases of the lungs, resulting in either temporary or
14 permanent disability or death, are occupational diseases and
15 compensable as such under the provisions of this chapter if caused
16 by exposure to heat, smoke, fumes, tear gas or any other noxious
17 gases, arising out of and in the course of the employment of a
18 person who, for 2 years or more, has been:

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

22 (b) Acting as a volunteer firefighter in this State and is entitled
23 to the benefits of chapters 616A to 616D, inclusive, of NRS
24 pursuant to the provisions of NRS 616A.145; or

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

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

35 3. Each volunteer firefighter who is to be covered for diseases
36 of the lungs pursuant to the provisions of this section shall submit
37 to:

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

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

43 ↪ until the volunteer firefighter reaches the age of 50 years. Each
44 volunteer firefighter who is 50 years of age or older shall submit to a
45 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 ~~15~~ 2 years or more before the date of disablement

if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

➤ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

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.

8. A person who files a claim for a disease of the lungs specified in this section after he or she retires from employment as a police officer, firefighter or arson investigator is not entitled to receive any compensation for that disease other than medical benefits.

Sec. 2.5. 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



1 by exposure to heat, smoke, fumes, tear gas or any other noxious
2 gases, arising out of and in the course of the employment of a
3 person who, for 2 years or more, has been:

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

7 (b) Acting as a volunteer firefighter in this State and is entitled
8 to the benefits of chapters 616A to 616D, inclusive, of NRS
9 pursuant to the provisions of NRS 616A.145; or

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

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

20 3. Each volunteer firefighter who is to be covered for diseases
21 of the lungs pursuant to the provisions of this section shall submit
22 to:

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

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

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

35 4. All physical examinations required pursuant to subsections 2
36 and 3 must be paid for by the employer.

37 5. A disease of the lungs is conclusively presumed to have
38 arisen out of and in the course of the employment of a person who
39 has been employed in a full-time continuous, uninterrupted and
40 salaried occupation as a police officer, firefighter or arson
41 investigator for 2 years or more before the date of disablement if the
42 disease is diagnosed and causes the disablement:

43 (a) During the course of that employment;

44 (b) If the person ceases employment before completing 20 years
45 of service as a police officer, firefighter or arson investigator, during



the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

➤ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

6. *Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 5.*

7. 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.

~~17.1~~ 8. 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.

~~18.1~~ 9. A person who files a claim for a disease of the lungs specified in this section after he or she retires from employment as a police officer, firefighter or arson investigator is not entitled to receive any compensation for that disease other than medical benefits.

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 of a person who, for ~~15.1~~ 2 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

~~1.1~~ *if the disease is diagnosed and causes the disablement:*

(a) *During the course of that employment;*

(b) *If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or*



(c) *If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.*

↳ *Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.*

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. 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.

13. A person who files a claim for a disease of the heart specified in this section after he or she retires from employment as a firefighter, arson investigator or police officer is not entitled to receive any compensation for that disease other than medical benefits.

Sec. 3.5. 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 2 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 if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

➤ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

2. *Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 1.*

3. 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.

~~13.1~~ 4. Except as otherwise provided in subsection ~~14.1~~ 5, 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.

~~14.1~~ 5. 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.

~~15-1~~ 6. 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.

~~16-1~~ 7. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection ~~15-1~~ 6 excludes the volunteer firefighter from the benefits of this section.

~~17-1~~ 8. 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.

~~18-1~~ 9. 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 ~~17-1~~ 8;

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

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

~~19-1~~ 10. Except as otherwise provided in subsection ~~17-1~~ 8, all physical examinations required pursuant to subsections ~~13-1~~ 4 and ~~14-1~~ 5 must be paid for by the employer.

~~110-1~~ 11. 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 ~~13-1~~ 4 or ~~14-1~~ 5 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

~~111-1~~ 12. 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.



~~112.1~~ 13. 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.

~~113.1~~ 14. A person who files a claim for a disease of the heart specified in this section after he or she retires from employment as a firefighter, arson investigator or police officer is not entitled to receive any compensation for that disease other than medical benefits.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. The amendatory provisions of this act:

1. Apply only to disablement which occurs on or after the effective date of this section; and

2. Do not apply to any person who, on the effective date of this section, has completed at least 20 years of creditable service, not including any service credit purchased in a retirement system, as a police officer, firefighter, volunteer firefighter or arson investigator in this State.

Sec. 7. 1. This section and sections 2, 3 and 6 of this act become effective upon passage and approval.

2. Sections 1.5, 2.5 and 3.5 of this act become effective on January 1, 2017.

