

ASSEMBLY BILL NO. 119—ASSEMBLYMAN CARRILLO

FEBRUARY 11, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing workers' compensation. (BDR 53-605)

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 industrial insurance; revising provisions governing the duty of certain insurers to accept or deny certain claims for compensation by police officers, firefighters and arson investigators; revising the standard of proof required for a police officer, firefighter or arson investigator to be entitled to compensation for an industrial injury; revising certain limitations on actions by police officers, firefighters and arson investigators for violations of the Nevada Industrial Insurance Act and the Nevada Occupational Diseases Act; revising provisions governing certain claims for compensation for the occupational diseases of cancer, lung disease, heart disease and hepatitis; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the duty of an insurer to accept or deny a claim for compensation under industrial insurance. (NRS 616C.065) **Section 1** of this bill requires an insurer, in the case of a claim for compensation for an industrial injury which is filed by a police officer, firefighter or arson investigator, to accept the claim unless there is clear and convincing evidence that the injury did not arise out of and in the course of the employment of the police officer, firefighter or arson investigator.

Existing law provides that an injured employee or his or her dependents are not entitled to receive compensation under chapters 616A to 616D, inclusive, of NRS unless the employee or dependents establish by a preponderance of the evidence that the employee's injury arose out of and in the course of his or her employment. (NRS 616C.150) **Section 2** of this bill provides that, in the case of a claim for compensation for an industrial injury which is filed by a police officer, firefighter



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or arson investigator, the employee and his or her dependents are entitled to compensation unless the employer of the injured employee establishes by clear and convincing evidence that the injury did not arise out of and in the course of the employment of the police officer, firefighter or arson investigator.

Existing law provides that: (1) no cause of action may be brought against an insurer or third-party administrator for a violation of the provisions of the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act; and (2) certain administrative fines are the exclusive remedies for such violations. (NRS 616D.030) **Section 3** of this bill provides an exception to these limitations in a case on behalf of a police officer, firefighter or arson investigator which alleges bad faith or unfair trade practices against an employer, self-insured employer, self-insured group, insurer or third-party administrator.

Existing law: (1) provides that if an employer, insurer or third-party administrator denies a claim by a police officer, firefighter or arson investigator for compensation for diseases of the heart or lung and the claimant ultimately prevails, the Administrator of the Division of Industrial Relations of the Department of Business and Industry is authorized to order the employer, insurer or third-party administrator to pay the claimant a benefit penalty of not more than \$200 for each day that the claim is under appeal; and (2) if a hearing is requested, requires the employer, insurer or third-party administrator to pay all medical costs that are associated with the occupational disease and incurred by the claimant on or after the date of the hearing before the hearing officer but provide for the recovery of such amounts paid if the employer, insurer or third-party administrator ultimately prevails. (NRS 617.455, 617.457) **Sections 1, 4, 7 and 8** of this bill extend these provisions to: (1) claims by police officers, firefighters and arson investigators for industrial injuries; (2) claims by firefighters for the occupational disease of cancer; and (3) claims by police officers, firefighters and emergency medical attendants for the occupational disease of hepatitis. **Sections 1 and 4-8** of this bill also add a minimum benefit penalty of \$100 for each day that the claim is under appeal.

Existing law provides that the failure of a police officer, firefighter or arson investigator to correct predisposing conditions which lead to heart or lung disease under certain circumstances excludes those employees from certain statutory presumptions that such diseases have arisen out of and in the course of employment. (NRS 617.455, 617.457) **Sections 5 and 6** of this bill provide that such failure to correct predisposing conditions may exclude the employee from the benefits of the presumptions if the correction is within the ability of the employee and the employer, self-insured employer, self-insured group, insurer or third-party administrator proves by clear and convincing evidence that the uncorrected predisposing condition proximately caused the disease for which the employee seeks compensation. **Sections 5 and 6** also set forth certain medical conditions which constitute diseases of the lungs and heart.

Section 9 of this bill provides that the amendatory provisions of this bill apply to all open claims for compensation, regardless of the date on which the claim was filed.



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

Section 1. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; ~~for~~

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied ~~for~~ ; or

(c) In the case of a claim for compensation by a police officer, firefighter or arson investigator, accept the claim unless there is clear and convincing evidence that the injury did not arise out of and in the course of the employment of the police officer, firefighter or arson investigator, as applicable, and, except as otherwise provided in NRS 617.453, 617.455, 617.457, 617.485 and 617.487, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim.

2. If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court, the Court of Appeals or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

4. Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to the claimant with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

5. *Except as otherwise provided in this subsection, if an employer, self-insured employer, self-insured group, insurer or*



1 *third-party administrator denies a claim that was filed by a police*
2 *officer, firefighter or arson investigator pursuant to the provisions*
3 *of chapters 616A to 616D, inclusive, or chapter 617 of NRS and*
4 *the claimant ultimately prevails, the Administrator shall order the*
5 *employer, self-insured employer, self-insured group, insurer or*
6 *third-party administrator, as applicable, to pay to the claimant a*
7 *benefit penalty of not less than \$100 for each day, and not more*
8 *than \$200 for each day, from the date on which a hearing or*
9 *appeal is filed until the date on which the claim is adjudicated to a*
10 *final decision. Such benefit penalty is payable in addition to any*
11 *benefits to which the claimant is entitled under the claim and any*
12 *finest and penalties imposed by the Administrator pursuant to NRS*
13 *616D.120. If a hearing before a hearing officer is requested*
14 *pursuant to NRS 616C.315 and held pursuant to NRS 616C.330,*
15 *the employer, self-insured employer, self-insured group, insurer or*
16 *third-party administrator, as applicable, shall pay to the claimant*
17 *all medical costs which are associated with the industrial injury or*
18 *occupational disease and are incurred from the date on which the*
19 *hearing is requested until the date on which the claim is*
20 *adjudicated to a final decision. If the employer, self-insured*
21 *employer, self-insured group, insurer or third-party administrator,*
22 *as applicable, ultimately prevails, the employer, self-insured*
23 *employer, self-insured group, insurer or third-party administrator,*
24 *as applicable, is entitled to recover the amount paid pursuant to*
25 *this subsection in accordance with the provisions of*
26 *NRS 616C.138.*

27 6. The insurer shall notify the claimant or the person acting on
28 behalf of the claimant that a claim has been accepted or denied
29 pursuant to subsection 1 or 2 by:

30 (a) Mailing its written determination to the claimant or the
31 person acting on behalf of the claimant; and

32 (b) If the claim has been denied, in whole or in part, obtaining a
33 certificate of mailing.

34 ~~16.1~~ 7. The failure of the insurer to obtain a certificate of
35 mailing as required by paragraph (b) of subsection ~~15.1~~ 6 shall be
36 deemed to be a failure of the insurer to mail the written
37 determination of the denial of a claim as required by this section.

38 ~~17.1~~ 8. The failure of the insurer to indicate the acceptance or
39 denial of a claim for a part of the body or condition does not
40 constitute a denial or acceptance thereof.

41 ~~18.1~~ 9. Upon request, the insurer shall provide a copy of the
42 certificate of mailing, if any, to the claimant or the person acting on
43 behalf of the claimant.

44 ~~19.1~~ 10. For the purposes of this section, the insurer shall mail
45 the written determination to:



(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~10.1~~ 11. As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 2. NRS 616C.150 is hereby amended to read as follows:

616C.150 1. ~~An~~ *Except as otherwise provided in subsection 2, an* injured employee or the dependents of the injured employee are not entitled to receive compensation pursuant to the provisions of chapters 616A to 616D, inclusive, of NRS unless the employee or the dependents establish by a preponderance of the evidence that the employee's injury arose out of and in the course of his or her employment.

2. *An injured police officer, injured firefighter, injured arson investigator and the dependents of that injured employee are entitled to receive compensation pursuant to the provisions of chapter 616A to 616D, inclusive, of NRS unless the employer of the injured employee establishes by clear and convincing evidence that the employee's injury did not arise out of and in the course of his or her employment.*

3. For the purposes of chapters 616A to 616D, inclusive, of NRS, if the employee files a notice of an injury pursuant to NRS 616C.015 after his or her employment has been terminated for any reason, there is a rebuttable presumption that the injury did not arise out of and in the course of his or her employment.

Sec. 3. NRS 616D.030 is hereby amended to read as follows:

616D.030 *Except in a case on behalf of a police officer, firefighter or arson investigator which alleges bad faith or unfair trade practices against an employer, self-insured employer, self-insured group, insurer or third-party administrator:*

1. No cause of action may be brought or maintained against an insurer or a third-party administrator who violates any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS.

2. The administrative fines provided for in NRS 616B.318 and 616D.120 are the exclusive remedies for any violation of this chapter or chapter 616A, 616B, 616C or 617 of NRS committed by an insurer or a third-party administrator.

Sec. 4. 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



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

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

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

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

11 (b) It is demonstrated that:

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

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

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

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

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

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

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

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

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

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

43 (h) Diesel exhaust, soot, aldehydes and polycyclic aromatic
44 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. This rebuttable presumption
32 applies to disabling cancer diagnosed after the termination of the
33 person's employment if the diagnosis occurs within a period, not to
34 exceed 60 months, which begins with the last date the employee
35 actually worked in the qualifying capacity and extends for a period
36 calculated by multiplying 3 months by the number of full years of
37 his or her employment. This rebuttable presumption must control
38 the awarding of benefits pursuant to this section unless evidence to
39 rebut the presumption is presented.

40 6. The provisions of this section do not create a conclusive
41 presumption.

42 *7. Except as otherwise provided in this subsection, if an*
43 *employer, self-insured employer, self-insured group, insurer or*
44 *third-party administrator denies a claim that was filed pursuant to*
45 *this section and the claimant ultimately prevails, the Administrator*



1 *shall order the employer, self-insured employer, self-insured*
2 *group, insurer or third-party administrator, as applicable, to pay to*
3 *the claimant a benefit penalty of not less than \$100 for each day,*
4 *and not more than \$200 for each day, from the date on which a*
5 *hearing or appeal is filed until the date on which the claim is*
6 *adjudicated to a final decision. Such benefit penalty is payable in*
7 *addition to any benefits to which the claimant is entitled under the*
8 *claim and any fines and penalties imposed by the Administrator*
9 *pursuant to NRS 616D.120. If a hearing before a hearing officer*
10 *is requested pursuant to NRS 616C.315 and held pursuant to NRS*
11 *616C.330, the employer, self-insured employer, self-insured group,*
12 *insurer or third-party administrator, as applicable, shall pay to the*
13 *claimant all medical costs which are associated with the industrial*
14 *injury or occupational disease and are incurred from the date on*
15 *which the hearing is requested until the date on which the claim is*
16 *adjudicated to a final decision. If the employer, self-insured*
17 *employer, self-insured group, insurer or third-party administrator,*
18 *as applicable, ultimately prevails, the employer, self-insured*
19 *employer, self-insured group, insurer or third-party administrator,*
20 *as applicable, is entitled to recover the amount paid pursuant to*
21 *this subsection in accordance with the provisions of*
22 *NRS 616C.138.*

23 **Sec. 5.** NRS 617.455 is hereby amended to read as follows:

24 617.455 1. Notwithstanding any other provision of this
25 chapter, diseases of the lungs, resulting in either temporary or
26 permanent disability or death, are occupational diseases and
27 compensable as such under the provisions of this chapter if caused
28 by exposure to heat, smoke, fumes, tear gas or any other noxious
29 gases, arising out of and in the course of the employment of a
30 person who, for 2 years or more, has been:

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

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

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

39 2. Except as otherwise provided in subsection 3, each
40 employee who is to be covered for diseases of the lungs pursuant to
41 the provisions of this section shall submit to a physical examination,
42 including a thorough test of the functioning of his or her lungs and
43 the making of an X-ray film of the employee's lungs, upon
44 employment, upon commencement of the coverage, once every 2



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

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

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

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

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

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

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

26 (a) During the course of that employment;

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

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

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

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

43 7. Failure to correct predisposing conditions which lead to lung
44 disease when so ordered in writing by the examining physician after
45 a physical examination required pursuant to subsection 2 or 3



~~[excludes]~~ *may exclude* the employee from the benefits of this section if the correction is within the ability of the employee ~~H~~ *and the employer, self-insured employer, self-insured group, insurer or third-party administrator proves by clear and convincing evidence that the uncorrected predisposing condition proximately caused the disease of the lungs for which the employee seeks compensation in the instant claim.*

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.

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.

10. The Administrator shall review a claim filed by a claimant pursuant to this section that has been in the appeals process for longer than 6 months to determine the circumstances causing the delay in processing the claim. As used in this subsection, "appeals process" means the period of time that:

(a) Begins on the date on which the claimant first files or submits a request for a hearing or an appeal of a determination regarding the claim; and

(b) Continues until the date on which the claim is adjudicated to a final decision.

11. Except as otherwise provided in this subsection, if an employer, insurer or third-party administrator denies a claim that was filed pursuant to this section and the claimant ultimately prevails, the Administrator ~~[may]~~ *shall* order the employer, insurer or third-party administrator, as applicable, to pay to the claimant a benefit penalty of *not less than \$100 for each day, and* not more than \$200 for each day, from the date on which an appeal is filed until the date on which the claim is adjudicated to a final decision. Such benefit penalty is payable in addition to any benefits to which the claimant is entitled under the claim and any fines and penalties imposed by the Administrator pursuant to NRS 616D.120. If a hearing before a hearing officer is requested pursuant to NRS 616C.315 and held pursuant to NRS 616C.330, the employer, insurer or third-party administrator, as applicable, shall pay to the claimant all medical costs which are associated with the occupational disease and are incurred from the date on which



the hearing is requested until the date on which the claim is adjudicated to a final decision. If the employer, insurer or third-party administrator, as applicable, ultimately prevails, the employer, insurer or third-party administrator, as applicable, is entitled to recover the amount paid pursuant to this subsection in accordance with the provisions of NRS 616C.138.

12. For the purposes of this section, a disease of the lungs includes, without limitation:

- (a) Asthma;***
- (b) Reactive airway disease;***
- (c) Chronic obstructive pulmonary disease;***
- (d) Chronic bronchitis;***
- (e) Emphysema;***
- (f) Lung cancer;***
- (g) Cystic fibrosis;***
- (h) Pulmonary fibrosis;***
- (i) Chronic pneumonia;***
- (j) Pleural effusion;***
- (k) Pleurisy;***
- (l) Pulmonary embolism;***
- (m) Pulmonary edema;***
- (n) Pneumoconiosis;***
- (o) Pulmonary hypertension;***
- (p) Interstitial lung disease;***
- (q) Sarcoidosis;***
- (r) Tuberculosis;***
- (s) Acute respiratory distress syndrome;***
- (t) Amyotrophic lateral sclerosis; and***
- (u) Myasthenia gravis.***

Sec. 6. 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.



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

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

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

22 4. Except as otherwise provided in subsection 5, each
23 employee who is to be covered for diseases of the heart pursuant to
24 the provisions of this section shall submit to a physical examination,
25 including an examination of the heart, upon employment, upon
26 commencement of coverage and thereafter on an annual basis during
27 his or her employment.

28 5. During the period in which a volunteer firefighter is
29 continuously on active status on the roster of a volunteer fire
30 department, a physical examination for the volunteer firefighter is
31 required:

32 (a) Upon employment;

33 (b) Upon commencement of coverage; and

34 (c) Once every 3 years after the physical examination that is
35 required pursuant to paragraph (b),

36 ➤ until the firefighter reaches the age of 50 years. Each volunteer
37 firefighter who is 50 years of age or older shall submit to a physical
38 examination once every 2 years during his or her employment.

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



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

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.

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 8;

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

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

10. Except as otherwise provided in subsection 8, all physical examinations required pursuant to subsections 4 and 5 must be paid for by the employer.

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 4 or 5 ~~excludes~~ *may exclude* the employee from the benefits of this section if the correction is within the ability of the employee ~~and the employer, self-insured employer, self-insured group, insurer or third-party administrator proves by clear and convincing evidence that the uncorrected predisposing condition proximately caused the disease of the heart for which the employee seeks compensation in the instant claim.~~

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.

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.

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



1 firefighter, arson investigator or police officer is not entitled to
2 receive any compensation for that disease other than medical
3 benefits.

4 15. The Administrator shall review a claim filed by a claimant
5 pursuant to this section that has been in the appeals process for
6 longer than 6 months to determine the circumstances causing the
7 delay in processing the claim. As used in this subsection, "appeals
8 process" means the period of time that:

9 (a) Begins on the date on which the claimant first files or
10 submits a request for a hearing or an appeal of a determination
11 regarding the claim; and

12 (b) Continues until the date on which the claim is adjudicated to
13 a final decision.

14 16. Except as otherwise provided in this subsection, if an
15 employer, insurer or third-party administrator denies a claim that
16 was filed pursuant to this section and the claimant ultimately
17 prevails, the Administrator ~~may~~ **shall** order the employer, insurer
18 or third-party administrator, as applicable, to pay to the claimant a
19 benefit penalty of **not less than \$100 for each day, and** not more
20 than \$200 for each day, from the date on which an appeal is filed
21 until the date on which the claim is adjudicated to a final decision.
22 Such benefit penalty is payable in addition to any benefits to which
23 the claimant is entitled under the claim and any fines and penalties
24 imposed by the Administrator pursuant to NRS 616D.120. If a
25 hearing before a hearing officer is requested pursuant to NRS
26 616C.315 and held pursuant to NRS 616C.330, the employer,
27 insurer or third-party administrator, as applicable, shall pay to the
28 claimant all medical costs which are associated with the
29 occupational disease and are incurred from the date on which
30 the hearing is requested until the date on which the claim is
31 adjudicated to a final decision. If the employer, insurer or third-
32 party administrator, as applicable, ultimately prevails, the employer,
33 insurer or third-party administrator, as applicable, is entitled to
34 recover the amount paid pursuant to this subsection in accordance
35 with the provisions of NRS 616C.138.

36 **17. For the purposes of this section, a disease of the heart**
37 **includes, without limitation:**

- 38 (a) **Coronary artery disease;**
39 (b) **Peripheral arterial disease;**
40 (c) **Myocardial infarction;**
41 (d) **Myocardial ischemia;**
42 (e) **Angina pectoris;**
43 (f) **Heart failure;**
44 (g) **Cardiomyopathy;**
45 (h) **Pericardial disease;**



(i) Congenital heart disease, including, without limitation, aortic stenosis, bicuspid aortic valve, pulmonary stenosis and subaortic stenosis;

(j) Valvular heart disease, including, without limitation, rheumatic heart disease, mitral insufficiency, mitral valve stenosis, mitral valve prolapse, aortic insufficiency, valvular regurgitation and tricuspid insufficiency;

(k) Arrhythmias, including, without limitation, bradycardia, ventricular tachycardia, supraventricular tachycardia, atrial fibrillation and cardiac dysrhythmia;

(l) Congestive heart failure;

(m) Chronic hypertension;

(n) Endocarditis; and

(o) Aortic aneurysm.

Sec. 7. 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 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.

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



1 with the opportunity to be vaccinated for hepatitis A and hepatitis B
2 upon employment and at other medically appropriate times during
3 his or her employment.

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

7 5. The provisions of this section:

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

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

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

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

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

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

26 ➤ may elect to receive the benefits provided pursuant to NRS
27 616C.440 for a permanent total disability.

28 7. *Except as otherwise provided in this subsection, if an*
29 *employer, self-insured employer, self-insured group, insurer or*
30 *third-party administrator denies a claim that was filed pursuant to*
31 *this section and the claimant ultimately prevails, the Administrator*
32 *shall order the employer, self-insured employer, self-insured*
33 *group, insurer or third-party administrator, as applicable, to pay to*
34 *the claimant a benefit penalty of not less than \$100 for each day,*
35 *and not more than \$200 for each day, from the date on which a*
36 *hearing or appeal is filed until the date on which the claim is*
37 *adjudicated to a final decision. Such benefit penalty is payable in*
38 *addition to any benefits to which the claimant is entitled under the*
39 *claim and any fines and penalties imposed by the Administrator*
40 *pursuant to NRS 616D.120. If a hearing before a hearing officer*
41 *is requested pursuant to NRS 616C.315 and held pursuant to NRS*
42 *616C.330, the employer, self-insured employer, self-insured group,*
43 *insurer or third-party administrator, as applicable, shall pay to the*
44 *claimant all medical costs which are associated with the industrial*
45 *injury or occupational disease and are incurred from the date on*



which the hearing is requested until the date on which the claim is adjudicated to a final decision. If the employer, self-insured employer, self-insured group, insurer or third-party administrator, as applicable, ultimately prevails, the employer, self-insured employer, self-insured group, insurer or third-party administrator, as applicable, is entitled to recover the amount paid pursuant to this subsection in accordance with the provisions of NRS 616C.138.

8. As used in this section:

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

(b) "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.

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

Sec. 8. NRS 617.487 is hereby amended to read as follows:

617.487 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 employee has 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 police officer 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, or to the dependents of a police officer, 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 shall:

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

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

(c) If the employer of the police officer provides screening for hepatitis A and hepatitis B for police officers, submit to a blood test



1 to screen for hepatitis A and hepatitis B upon employment, upon the
2 commencement of coverage and thereafter on an annual basis during
3 his or her employment, except that a police officer is not required to
4 submit to a blood test to screen for hepatitis A and hepatitis B on an
5 annual basis during his or her employment if he or she has been
6 vaccinated for hepatitis A and hepatitis B upon employment or at
7 other medically appropriate times during his or her employment.
8 Each employer shall provide a police officer with the opportunity to
9 be vaccinated for hepatitis A and hepatitis B upon employment and
10 at other medically appropriate times during his or her employment.

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

14 5. The provisions of this section:

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

18 (b) Apply to a police officer who is diagnosed with hepatitis
19 upon employment if, during the employment or within 1 year after
20 the last day of the employment, the police officer is diagnosed with
21 a different strain of hepatitis.

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

25 6. A police officer who is determined to be:

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

28 (b) Incapable of performing, with or without remuneration, work
29 as a police officer,

30 ➔ may elect to receive the benefits provided pursuant to NRS
31 616C.440 for a permanent total disability.

32 7. *Except as otherwise provided in this subsection, if an*
33 *employer, self-insured employer, self-insured group, insurer or*
34 *third-party administrator denies a claim that was filed pursuant to*
35 *this section and the claimant ultimately prevails, the Administrator*
36 *shall order the employer, self-insured employer, self-insured*
37 *group, insurer or third-party administrator, as applicable, to pay to*
38 *the claimant a benefit penalty of not less than \$100 for each day,*
39 *and not more than \$200 for each day, from the date on which a*
40 *hearing or appeal is filed until the date on which the claim is*
41 *adjudicated to a final decision. Such benefit penalty is payable in*
42 *addition to any benefits to which the claimant is entitled under the*
43 *claim and any fines and penalties imposed by the Administrator*
44 *pursuant to NRS 616D.120. If a hearing before a hearing officer*
45 *is requested pursuant to NRS 616C.315 and held pursuant to*



NRS 616C.330, the employer, self-insured employer, self-insured group, insurer or third-party administrator, as applicable, shall pay to the claimant all medical costs which are associated with the industrial injury or occupational disease and are incurred from the date on which the hearing is requested until the date on which the claim is adjudicated to a final decision. If the employer, self-insured employer, self-insured group, insurer or third-party administrator, as applicable, ultimately prevails, the employer, self-insured employer, self-insured group, insurer or third-party administrator, as applicable, is entitled to recover the amount paid pursuant to this subsection in accordance with the provisions of NRS 616C.138.

8. 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. 9. The amendatory provisions of this act apply to all open claims for compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or 617 of NRS, regardless of the date on which the claim was filed.

