

Senate Bill No. 215—Senators Cannizzaro, Scheible, Parks, Woodhouse; Cancela, Denis, Dondero Loop, D. Harris, Ohrenschall and Spearman

CHAPTER.....

AN ACT relating to occupational diseases; revising provisions governing compensation for certain employees who develop cancer as an occupational disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, cancer which results in temporary disability, permanent disability or death is an occupational disease and compensable as such under the provisions governing occupational diseases if the cancer develops or manifests itself out of and in the course of employment of a person who: (1) for 5 years or more, has been employed as a full-time firefighter or has been acting as a volunteer firefighter; and (2) during the course of the employment, was exposed to a known carcinogen that is reasonably associated with the disabling cancer. Existing law also sets forth: (1) a list of substances that are deemed to be known carcinogens that are reasonably associated with specific disabling cancers; and (2) conditions which, when met, create a rebuttable presumption that the cancer developed or manifested itself out of and in the course of employment. (NRS 617.453) This bill provides that such disabling cancer is an occupational disease and compensable as such under the provisions governing occupational diseases if: (1) the cancer develops or manifests itself out of and in the course of employment of a person who, for 5 years or more, has been employed as a full-time firefighter, investigator of fires or arson, or instructor or officer who provides training concerning fire or hazardous materials or has been acting as a volunteer firefighter; and (2) in the course of that employment or the performance of his or her duties, has been exposed to a known carcinogen that is reasonably associated with the disabling cancer. This bill also: (1) revises the list of substances which are deemed to be known carcinogens; (2) provides that disabling cancer is rebuttably presumed to be occupationally related under certain circumstances; and (3) provides that a person who files a claim for a disabling cancer after retirement from employment as a firefighter, investigator of fires or arson, or instructor or officer who provides training concerning fire or hazardous materials is not entitled to compensation for that disease other than medical benefits under certain circumstances.

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

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

Section 1. NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent 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]~~ **as:**

(I) A firefighter for the benefit or safety of the public;

(II) An investigator of fires or arson; or

(III) An instructor or officer for the provision of training concerning fire or hazardous materials; 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, *or a substance reasonably anticipated to be a human carcinogen*, as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen *or substance, as applicable*, 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,]~~ *as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1*, 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) *Asbestos, benzene, diesel exhaust and soot, digoxin, ethylene oxide, polychlorinated biphenyls and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with breast cancer.*

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



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

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

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

(h) Benzene, diesel exhaust and soot, formaldehyde, 1,3-butadiene and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with leukemia.

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

(j) Arsenic, asbestos, cadmium, chromium compounds, oils, polycyclic aromatic hydrocarbon, radon, silica, soot and tars shall be deemed to be known carcinogens that are reasonably associated with lung cancer.

~~[(g)]~~ (k) 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)]~~ (l) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(m) Benzene, dioxins and glyphosate shall be deemed to be known carcinogens that are reasonably associated with multiple myeloma.

(n) Arsenic, asbestos, benzene, diesel exhaust and soot, formaldehyde and hydrogen chloride shall be deemed to be known carcinogens that are reasonably associated with nasopharyngeal cancer, including laryngeal cancer and pharyngeal cancer.

(o) Benzene, chronic hepatitis B and C viruses, formaldehyde and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with non-Hodgkin's lymphoma.

(p) Asbestos, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with ovarian cancer.



(q) Polycyclic aromatic hydrocarbon shall be deemed to be a known carcinogen that is reasonably associated with pancreatic cancer.

~~[(+)]~~ (r) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

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

(t) Chlorophenols, chlorophenoxy herbicides and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with soft tissue sarcoma.

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

~~[(+)]~~ (v) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.

~~[(+)]~~ (w) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.

(x) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with urinary tract cancer and ureteral cancer.

(y) Benzene and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with uterine cancer.

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen *or is reasonably anticipated to be a human carcinogen, including an agent classified by the International Agency for Research on Cancer in Group 1 or Group 2A*, that is reasonably associated with a disabling cancer.

~~[4.—Compensation]~~

4. Except as otherwise provided in subsection 10, compensation awarded to the employee or his or her dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260



or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

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

5. ~~{Disabling}~~ *For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1, disabling cancer is rebuttably presumed to have arisen out of and in the course of the employment of the person if the disease is diagnosed during the course of the person's employment described in paragraph (a) of subsection 1.*

6. *For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1 and who retires before July 1, 2019, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1, regardless of the date on which the volunteer firefighter retires, disabling cancer is rebuttably presumed to have ~~{developed or manifested itself}~~ arisen out of and in the course of the person's employment ~~{of any firefighter described in this section.}~~ pursuant to this subsection.* This rebuttable presumption applies to disabling cancer diagnosed after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his or her employment. ~~{This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.~~

~~—6. The provisions of this section do not create a conclusive presumption.~~

7. *For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1 and who retires on or after July 1, 2019, disabling cancer is rebuttably presumed to have arisen out of and in the course of the person's employment pursuant to this subsection. This rebuttable presumption applies to disabling cancer diagnosed:*



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

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

8. Service credit which is purchased in a retirement system must not be used to calculate the number of years of service or employment of a person for the purposes of this section.

9. A rebuttable presumption created by subsection 5, 6 or 7 must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented. The provisions of subsections 5, 6 and 7 do not create a conclusive presumption.

10. A person who files a claim for a disabling cancer pursuant to subsection 7 after he or she retires from employment as a firefighter, investigator of fires or arson, or instructor or officer for the provision of training concerning fire or hazardous materials is not entitled to receive any compensation for that disease other than medical benefits.

Sec. 2. The amendatory provisions of this act apply only to claims filed on or after July 1, 2019.

Sec. 3. This act becomes effective on July 1, 2019.

