

(Reprinted with amendments adopted on April 22, 2019)

FIRST REPRINT

S.B. 215

SENATE BILL NO. 215—SENATORS CANNIZZARO, SCHEIBLE,
PARKS, WOODHOUSE; CANCELA, DENIS, DONDERO LOOP,
D. HARRIS, OHRENSCHALL AND SPEARMAN

FEBRUARY 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to occupational diseases.
(BDR 53-317)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

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 or, for any period of time, has been employed as a full-time police officer; 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 conclusively presumed to be occupationally related if a firefighter, investigator of fires or arson, or instructor or officer who



* S B 2 1 5 R 1 *

provides training concerning fire or hazardous materials has served a certain number of years in the profession before contracting the disease; (3) creates a rebuttable presumption that the disabling cancer of a volunteer firefighter or police officer is occupationally related under certain circumstances; and (4) 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.

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. *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 Category I peace officer or a Category II peace officer who has been employed in a full-time, continuous, uninterrupted and salaried occupation as a police officer; and*



(b) While in the performance of his or her duties, the peace officer has a documented exposure to an atmosphere that contains a concentration of a chemical that is immediately dangerous to life or health, a known carcinogen or a substance reasonably anticipated to be a human carcinogen.

3. 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) Asbestos, benzene, diesel exhaust and soot, digoxin, ethylene oxide, polychlorinated biphenyls, polycyclic aromatic hydrocarbon and talc 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.*

~~[(i)]~~ (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.*

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

~~[(e)]~~ (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.]~~ 4. The provisions of subsection ~~[2]~~ 3 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 ~~[.]~~ *or paragraph (b) of subsection 2*, 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]~~

5. *Except as otherwise provided in subsection 8, 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.]~~ 6. Disabling cancer is *conclusively* presumed to have ~~[developed or manifested itself]~~ *arisen* out of and in the course of the employment of ~~[any firefighter described in this section. 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.] a person if:~~

(a) The person has been employed in a full-time, continuous, uninterrupted and salaried occupation as:

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

(2) An investigator of fires or arson; or

(3) An instructor or officer for the provision of training concerning fire or hazardous materials; and



(b) *The disease is diagnosed and causes the disablement or death:*

(1) *During the course of the person's employment described in paragraph (a);*

(2) *If the person ceases employment before completing 20 years of service as a firefighter, investigator of fires or arson, or instructor or officer for the provision of training concerning fire or hazardous materials, during the period after separation from employment which is equal to the number of years worked; or*

(3) *If the person ceases employment after completing 20 years or more of service as a firefighter, investigator of fires or arson, or instructor or officer for the provision of training concerning fire or hazardous materials, at any time during the person's life.*

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

7. *Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any volunteer firefighter, Category I peace officer or Category II peace officer described in this section. 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. The provisions of this subsection do not create a conclusive presumption.*

8. *A person who files a claim for a disabling cancer pursuant to this section 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.*

9. *As used in this section:*

(a) *"Category I peace officer" has the meaning ascribed to it in NRS 289.460.*

(b) *"Category II peace officer" has the meaning ascribed to it in NRS 289.470.*

(c) *"Concentration of a chemical that is immediately dangerous to life or health" means the value for toxicity resulting from exposure to that chemical as set forth in the most recent edition of the NIOSH Pocket Guide to Chemical Hazards,*



1 *published by the National Institute for Occupational Safety and*
2 *Health of the Centers for Disease Control and Prevention of the*
3 *United States Department of Health and Human Services.*
4 **Sec. 2.** The amendatory provisions of this act apply only to
5 claims filed on or after July 1, 2019.

