

SECOND REGULAR SESSION

HOUSE BILL NO. 1985

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLINGTON.

5599H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation for firefighters.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.067, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 287.067 and 287.068, to read as follows:

287.067. 1. **(1)** In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

(2) For purposes of this section, "hazardous duty" shall mean any duty performed under circumstances in which an accident could result in serious injury or death, such as duty performed on a high structure where protective facilities are not used or on an open structure where adverse conditions such as darkness, lightning, steady rain, or high wind velocity exist.

2. An injury or death by occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability. The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability. Ordinary, gradual deterioration, or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 progressive degeneration of the body caused by aging or by the normal activities of day-to-day
19 living shall not be compensable.

20 3. An injury due to repetitive motion is recognized as an occupational disease for
21 purposes of this chapter. An occupational disease due to repetitive motion is compensable only
22 if the occupational exposure was the prevailing factor in causing both the resulting medical
23 condition and disability. The "prevailing factor" is defined to be the primary factor, in relation
24 to any other factor, causing both the resulting medical condition and disability. Ordinary,
25 gradual deterioration, or progressive degeneration of the body caused by aging or by the normal
26 activities of day-to-day living shall not be compensable.

27 4. "Loss of hearing due to industrial noise" is recognized as an occupational disease for
28 purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to
29 prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of
30 producing occupational deafness.

31 5. "Radiation disability" is recognized as an occupational disease for purposes of this
32 chapter and is hereby defined to be that disability due to radioactive properties or substances or
33 to Roentgen rays (X-rays) or exposure to ionizing radiation caused by any process involving the
34 use of or direct contact with radium or radioactive properties or substances or the use of or direct
35 exposure to Roentgen rays (X-rays) or ionizing radiation.

36 6. (1) Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of
37 the heart or cardiovascular system, including carcinoma, may be recognized as occupational
38 diseases for the purposes of this chapter and are defined to be disability due to exposure to
39 smoke, gases, carcinogens, **or** inadequate oxygen, of paid **or** volunteer firefighters of a [~~paid~~]
40 fire department or paid police officers of a paid police department certified under chapter 590
41 if a direct causal relationship is established, or psychological stress of firefighters of a [~~paid~~] fire
42 department or paid peace officers of a police department who are certified under chapter 590 if
43 a direct causal relationship is established.

44 (2) (a) **Cancer contracted by a firefighter shall be presumed as an occupational**
45 **disease if:**

46 a. **The firefighter is a paid or volunteer firefighter who has been assigned to at least**
47 **five years of hazardous duty as a firefighter;**

48 b. **The firefighter was exposed to an agent classified by the International Agency**
49 **for Research on Cancer or its successor organization as a group 1 or 2A carcinogen or**
50 **classified as a cancer-causing agent by the American Cancer Society, the American**
51 **Association for Cancer Research, the Agency for Healthcare Research and Quality, the**
52 **American Society of Clinical Oncology, the National Institute for Occupational Safety and**
53 **Health, or the National Cancer Institute;**

54 c. Twenty years have not elapsed since the firefighter was last assigned to
55 hazardous duty as a firefighter; and

56 d. The firefighter is not seventy years of age or older at the time of the diagnosis of
57 cancer.

58 (b) The presumption described in paragraph (a) of this subdivision shall be
59 rebuttable if:

60 a. There is evidence that the firefighter's exposure to personal use of cigarettes,
61 tobacco products, or other conditions presenting an extremely high risk for the
62 development of the cancer alleged was more than likely the prevailing factor in the cause
63 or progression of the cancer, and such exposure occurred outside the scope of employment
64 or volunteer service as a firefighter; or

65 b. There is evidence that the firefighter incurred the type of cancer alleged before
66 becoming a firefighter.

67 (c) Compensation for cancer contracted by a firefighter in the course of hazardous
68 duty under paragraph (a) of this subdivision shall be payable as otherwise provided in this
69 chapter.

70 (d) This subdivision shall apply to paid and volunteer firefighters of all fire
71 departments of all counties, cities, towns, fire districts, and other political subdivisions.

72 (e) This subdivision shall apply only to claims filed on or after August 28, 2018.

73 7. Any employee who is exposed to and contracts any contagious or communicable
74 disease arising out of and in the course of his or her employment shall be eligible for benefits
75 under this chapter as an occupational disease.

76 8. With regard to occupational disease due to repetitive motion, if the exposure to the
77 repetitive motion which is found to be the cause of the injury is for a period of less than three
78 months and the evidence demonstrates that the exposure to the repetitive motion with the
79 immediate prior employer was the prevailing factor in causing the injury, the prior employer
80 shall be liable for such occupational disease.

**287.068. 1. The division shall prepare a report containing the following
2 information regarding presumed cancer claims described under subdivision (2) of
3 subsection 6 of section 287.067:**

4 (1) The number of approved claims;

5 (2) The number of disapproved claims;

6 (3) The number of active claims; and

7 (4) The cost related to claims described under subdivisions (1) and (3) of this
8 subsection.

9 **2. The division shall submit the report required under subsection 1 of this section**
10 **before August 28, 2020, and an updated report every two years thereafter, to each of the**
11 **following:**

- 12 **(1) The speaker and the minority leader of the house of representatives;**
- 13 **(2) The president pro tempore and the minority leader of the senate;**
- 14 **(3) The Missouri Association of Fire Chiefs or its successor organization;**
- 15 **(4) The Fire Fighters Association of Missouri or its successor organization; and**
- 16 **(5) The Missouri Municipal League or its successor organization.**

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