

# SENATE BILL NO. 339

## 101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR LUETKEMEYER.

1573S.01H

ADRIANE D. CROUSE, Secretary

### AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof one new section relating to occupational diseases diagnosed in certain first responders.

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

Section A. Section 287.067, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.067, to read as follows: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 the purposes of this section, the term "hazardous duty" has the same meaning given to such term under 5 CFR 550.902.**

2. An injury or death by occupational disease is compensable only if the occupational exposure was the

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 prevailing factor in causing both the resulting medical  
20 condition and disability. The "prevailing factor" is  
21 defined to be the primary factor, in relation to any other  
22 factor, causing both the resulting medical condition and  
23 disability. Ordinary, gradual deterioration, or progressive  
24 degeneration of the body caused by aging or by the normal  
25 activities of day-to-day living shall not be compensable.

26 3. An injury due to repetitive motion is recognized as  
27 an occupational disease for purposes of this chapter. An  
28 occupational disease due to repetitive motion is compensable  
29 only if the occupational exposure was the prevailing factor  
30 in causing both the resulting medical condition and  
31 disability. The "prevailing factor" is defined to be the  
32 primary factor, in relation to any other factor, causing  
33 both the resulting medical condition and disability.  
34 Ordinary, gradual deterioration, or progressive degeneration  
35 of the body caused by aging or by the normal activities of  
36 day-to-day living shall not be compensable.

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

43 5. "Radiation disability" is recognized as an  
44 occupational disease for purposes of this chapter and is  
45 hereby defined to be that disability due to radioactive  
46 properties or substances or to Roentgen rays (X-rays) or  
47 exposure to ionizing radiation caused by any process  
48 involving the use of or direct contact with radium or  
49 radioactive properties or substances or the use of or direct  
50 exposure to Roentgen rays (X-rays) or ionizing radiation.

51           6.   **(1)** Disease of the lungs or respiratory tract[,  
52 hypotension, hypertension, or disease]; **diseases** of the  
53 heart or cardiovascular system, including, **but not limited**  
54 **to, diseases of the blood or bone marrow, hypotension, and**  
55 **hypertension; and diseases of the body systems or organs**  
56 **from** carcinoma[,] may be recognized as occupational diseases  
57 for the purposes of this chapter and are defined to be  
58 disability due to exposure to smoke, gases, carcinogens, **or**  
59 inadequate oxygen, of paid, **volunteer, or retired**  
60 firefighters [of a paid fire department], **paramedics or**  
61 **emergency medical technicians of a fire department or fire**  
62 **district, paid emergency or 911 dispatchers,** or paid  
63 [police] **peace** officers of a paid police department  
64 certified under chapter 590 [if a direct causal relationship  
65 is established, or].

66           **(2)** For purposes of this chapter, psychological stress  
67 **and mental disorders may be recognized as occupational**  
68 **diseases** of paid, **volunteer, or retired** firefighters [of a  
69 paid fire department], **paid emergency or 911 dispatchers,**  
70 **paramedics or emergency medical technicians of a fire**  
71 **department or fire district,** or paid peace officers of a  
72 police department who are certified under chapter 590 [if a  
73 direct causal relationship is established], **and such**  
74 **psychological stress and mental disorders shall be defined**  
75 **to be disability due to exposure to stressful exposures if**  
76 **such psychological stress or mental disorders arise from**  
77 **their employment.**

78           7.   **(1)** Any infectious disease; disease of the lungs  
79 or respiratory tract; disease of the heart or cardiovascular  
80 system including, but not limited to, disease of the blood  
81 or bone marrow, hypotension, and hypertension; or disease of  
82 the body systems or organs from carcinoma contracted by a

83 paid, volunteer, or retired firefighter, paramedic or  
84 emergency medical technician of a fire department or fire  
85 district, or paid emergency or 911 dispatcher shall be  
86 presumed to be an occupational disease unless there is  
87 reasonable medical evidence that such person was not free of  
88 such disease at the beginning of his or her employment. It  
89 shall be the duty of the employer of such person to provide  
90 such reasonable medical evidence.

91 (2) If the employer fails to produce such reasonable  
92 medical evidence, then the paid, volunteer, or retired  
93 firefighter, paramedic or emergency medical technician of a  
94 fire department or fire district, or paid emergency or 911  
95 dispatcher shall have the benefit of the presumption.

96 (3) This subsection shall apply to paid, volunteer,  
97 and retired firefighters, paramedics, and emergency medical  
98 technicians of all fire departments of all counties,  
99 political subdivisions, cities, towns, fire districts, and  
100 other governmental units, and to paid emergency or 911  
101 dispatchers.

102 (4) As used in this section, "infectious disease"  
103 means the human immunodeficiency virus, acquired  
104 immunodeficiency syndrome, tuberculosis, hepatitis A,  
105 hepatitis B, hepatitis C, hepatitis D, diphtheria,  
106 meningococcal meningitis, methicillin-resistant  
107 staphylococcus aureus, hemorrhagic fever, plague, rabies,  
108 severe acute respiratory syndrome, and such other diseases  
109 which are identified by department of health and senior  
110 services, the state emergency management agency, or by an  
111 executive order of the governor, as a disease which poses a  
112 serious health risk for the citizens of Missouri.

113 8. (1) Psychological stress and mental disorder of a  
114 paid, volunteer, or retired firefighter, paramedic or

115 emergency medical technician of a fire department or fire  
116 district, paid emergency or 911 dispatcher, or a paid peace  
117 officer of a paid police department certified under chapter  
118 590, shall be presumed to be an occupational disease that  
119 was contracted in the course and scope of employment,  
120 regardless of whether the onset is sudden or gradual, if  
121 such psychological stress or mental disorder requires  
122 medical services or results in physical or mental  
123 disability, as diagnosed by a psychiatrist or psychologist.

124 (2) A paid, volunteer, or retired firefighter,  
125 paramedic or emergency medical technician of a fire  
126 department or fire district, paid emergency or 911  
127 dispatchers, or a paid peace officer of a paid police  
128 department certified under chapter 590, who is diagnosed  
129 with psychological stress or a mental disorder during  
130 employment or within three years of the last active date of  
131 employment shall be eligible for compensation benefits as  
132 otherwise provided for in this chapter.

133 (3) The presumption described in this subsection shall  
134 be rebuttable if:

135 (a) There is evidence that the condition existed prior  
136 to the commencement of the employment;

137 (b) The prevailing factor in causing such condition is  
138 unrelated to the employment; or

139 (c) The prevailing factor in causing such condition is  
140 from exposures occurring outside the scope of the employment.

141 9. Compensation for an infectious disease; disease of  
142 the lungs or respiratory tract; disease of the heart or  
143 cardiovascular system including, but not limited to, disease  
144 of the blood or bone marrow, hypotension, or hypertension;  
145 disease of the body systems or organs from carcinoma  
146 contracted by a paid, volunteer, or retired firefighter,

147 paramedic or emergency medical technician of a fire  
148 department or fire district, or paid emergency or 911  
149 dispatcher in the course of hazardous duty under this  
150 section shall be payable as otherwise provided for in this  
151 chapter.

152         10. (1) As used in this section, the phrase "the body  
153 systems or organs from carcinoma" refers to any condition of  
154 cancer affecting the skin or the central nervous, lymphatic,  
155 digestive, hematological, urinary, skeletal, oral, breast,  
156 testicular, genitourinary, liver, or prostate systems, as  
157 well as any condition of cancer that may result from  
158 exposure to heat absorption, inhalation, ingestion, or  
159 radiation. References to "the body systems or organs from  
160 carcinoma" shall be presumed to be references to cancer and  
161 an occupational disease if:

162             (a) The person has been assigned to at least five  
163 years of hazardous duty;

164             (b) The person was exposed to an agent, whether known  
165 or unknown, classified by the International Agency for  
166 Research on Cancer, or any successor organization, as a  
167 group 1 or 2A carcinogen, or is classified as a cancer-  
168 causing agent by the American Cancer Society, the American  
169 Association for Cancer Research, the Agency for Healthcare  
170 Research and Quality, the American Society of Clinical  
171 Oncology, the National Institute for Occupational Safety and  
172 Health, or the United States National Cancer Institute;

173             (c) Fewer than twenty years have elapsed since the  
174 person was last assigned to hazardous duty; and

175             (d) At the time of the diagnosis of cancer, the person  
176 is not seventy years of age or older.

177         (2) The presumption described in subdivision (1) of  
178 this subsection shall be rebuttable if:

179           (a) There is evidence that the exposure to personal  
180 use of cigarettes, tobacco products, or other conditions  
181 presenting an extremely high risk for the development of the  
182 cancer was, more than likely, the prevailing factor in the  
183 cause of progression of the cancer, and such exposure  
184 occurred outside the scope of employment; or

185           (b) There is evidence that the person developed the  
186 type of cancer alleged before becoming a member of the fire  
187 department or fire district.

188           11. Any employee who is exposed to and contracts any  
189 contagious or communicable disease arising out of and in the  
190 course of his or her employment shall be eligible for  
191 benefits under this chapter as an occupational disease.

192           [8.] 12. With regard to occupational disease due to  
193 repetitive motion, if the exposure to the repetitive motion  
194 which is found to be the cause of the injury is for a period  
195 of less than three months and the evidence demonstrates that  
196 the exposure to the repetitive motion with the immediate  
197 prior employer was the prevailing factor in causing the  
198 injury, the prior employer shall be liable for such  
199 occupational disease.

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