

FIRST REGULAR SESSION

# SENATE BILL NO. 415

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HUMMEL.

Read 1st time February 13, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1874S.011

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Section A. Section 287.067, RSMo, is repealed and two new sections  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

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

10 **(2) For purposes of this section, "hazardous duty" has the same**  
11 **meaning given to the term under 5 CFR 550.902, as amended.**

12 2. An injury or death by occupational disease is compensable only if the  
13 occupational exposure was the prevailing factor in causing both the resulting  
14 medical condition and disability. The "prevailing factor" is defined to be the  
15 primary factor, in relation to any other factor, causing both the resulting medical  
16 condition and disability. Ordinary, gradual deterioration, or progressive  
17 degeneration of the body caused by aging or by the normal activities of day-to-day  
18 living shall not be compensable.

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

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

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

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

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

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

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

52           **b. The firefighter was exposed to an agent classified by the**  
53 **International Agency for Research on Cancer, or its successor**  
54 **organization as a group 1 or 2A carcinogen;**

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

57 d. The firefighter is not seventy years of age or older.

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

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

65 b. There is evidence that the firefighter was not exposed to an  
66 agent classified by the International Agency for Research on Cancer as  
67 a group 1 or 2A carcinogen; or

68 c. There is evidence that the firefighter incurred the type of  
69 cancer alleged before becoming a member of the fire department.

70 (c) Compensation for cancer contracted by a firefighter in the  
71 course of hazardous duty under paragraph (a) of this subdivision shall  
72 be payable only in the event of temporary total disability, permanent  
73 total disability, or death, in accordance with sections 287.170, 287.200,  
74 and 287.230.

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

78 (e) This subdivision shall only apply to claims arising on or after  
79 August 28, 2017.

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

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

287.068. 1. The division shall prepare a report containing the  
2 following information regarding presumed cancer claims under  
3 subdivision (2) of 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)**  
8 **and (3) of this subsection.**

9           **2. The division shall submit the report required under subsection**  
10 **1 of this section before August 28, 2019, and an updated report every**  
11 **two years thereafter, to all of the following:**

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

Bill ✓

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