

1 ENGROSSED HOUSE
2 BILL NO. 2239

By: May of the House

3 and

4 Daniels of the Senate

5
6
7 [workers' compensation - occupational diseases -
8 emergency]
9

10

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY Section 65, Chapter 208, O.S.L.
13 2013, as amended by Section 3, Chapter 390, O.S.L. 2015 (85A O.S.
14 Supp. 2020, Section 65), is amended to read as follows:

15 Section 65. A. If an employee suffers from an occupational
16 disease as defined in this section and is disabled or dies as a
17 result of the disease, the employee, or, in case of death, his or
18 her dependents, shall be entitled to compensation as if the
19 disability or death were caused by injury arising out of work
20 activities within the scope of employment, except as otherwise
21 provided in this section.

22 B. No compensation shall be payable for an occupational disease
23 if the employee, at the time of entering into the employment of the
24 employer by whom the compensation would otherwise be payable,

1 falsely represented himself or herself in writing as not having
2 previously been disabled, laid off, or compensated in damages or
3 otherwise, because of the disease.

4 C. 1. If an occupational disease is aggravated by any other
5 disease or infirmity, not itself compensable, or if disability or
6 death from any other cause, not itself compensable, is aggravated,
7 prolonged, accelerated, or in any way contributed to by an
8 occupational disease, the compensation payable shall be reduced and
9 limited to the proportion only of the compensation that would be
10 payable if the occupational disease were the major cause of the
11 disability or death as the occupational disease, as a causative
12 factor, bears to all the causes of the disability or death.

13 2. The reduction in compensation is to be effected by reducing
14 the number of weekly or monthly payments or the amounts of the
15 payments, as under the circumstances of the particular case may be
16 for the best interest of the claimant.

17 D. 1. "Occupational disease", as used in ~~this act~~ the
18 Administrative Workers' Compensation Act, unless the context
19 otherwise requires, means any disease that results in disability or
20 death and arises out of and in the course of the occupation or
21 employment of the employee or naturally follows or unavoidably
22 results from an injury as that term is defined in ~~this act~~ the
23 Administrative Workers' Compensation Act. A causal connection
24

1 between the occupation or employment and the occupational disease
2 shall be established by a preponderance of the evidence.

3 2. No compensation shall be payable for any contagious or
4 infectious disease unless contracted in the course and scope of
5 employment. In the event a first responder tests positive for
6 severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
7 commonly known as the coronavirus or COVID-19, the disease shall be
8 presumed to have been contracted in the course and scope of
9 employment unless the employer proves by a preponderance of the
10 evidence that the disease was not contracted in the course and scope
11 of employment. The presumption shall apply to any claim filed on or
12 after the effective date of this act and to any claim filed before
13 the effective date of this act if the claim was denied and an appeal
14 of the denial has been filed with the Workers' Compensation
15 Commission. For purposes of this paragraph, a "first responder" is
16 defined as a peace officer, reserve peace officer, firefighter, or
17 emergency medical technician employed by a municipality, county,
18 emergency medical services provider, or the State of Oklahoma, or a
19 volunteer firefighter, who is exposed to COVID-19 during the
20 performance of his or her duties.

21 3. No compensation shall be payable for any ordinary disease of
22 life to which the general public is exposed.

23 E. 1. When compensation is payable for an occupational
24 disease, the employer in whose employment the employee was last

1 injuriously exposed to the hazards of the disease and the carrier,
2 if any, ~~on~~ responsible for the risk when the employee was last
3 injuriously exposed under the employer shall be liable.

4 2. The amount of the compensation shall be based on the average
5 weekly wage of the employee when last injuriously exposed under the
6 employer, and the notice of injury and claim for compensation shall
7 be given and made to that employer.

8 F. 1. An employer shall not be liable for any compensation for
9 an occupational disease unless:

10 a. the disease is due to the nature of an employment in
11 which the hazards of the disease actually exist and is
12 actually incurred by the employee in the course and
13 scope of his or her employment. This includes any
14 disease due to or attributable to exposure to or
15 contact with any radioactive material by an employee
16 in the course and scope of his or her employment,

17 b. the disease is COVID-19 and the employer has not
18 overcome the presumption provided for in paragraph 2
19 of subsection D of this section,

20 c. disablement or death results within three (3) years in
21 case of silicosis or asbestosis, or one (1) year in
22 case of any other occupational disease, except a
23 diseased condition caused by exposure to X-rays,
24 radioactive substances, or ionizing radiation, after

1 the last injurious exposure to the disease in the
2 employment, or

3 ~~e.~~ d. in case of death, death follows continuous disability
4 from the disease, commencing within the period, for
5 which compensation has been paid or awarded or timely
6 claim made as provided in subparagraph ~~b~~ c of this
7 paragraph and results within seven (7) years after the
8 last exposure.

9 2. However, in case of a diseased condition caused by exposure
10 to X-rays, radioactive substances, or ionizing radiation only, the
11 limitations expressed do not apply.

12 SECTION 2. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 Passed the House of Representatives the 10th day of March, 2021.

17
18 _____
19 Presiding Officer of the House
20 of Representatives

21 Passed the Senate the ____ day of _____, 2021.

22
23 _____
24 Presiding Officer of the Senate