

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 2276

By: West (Josh)

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6 AS INTRODUCED

7 An Act relating to Workers' Compensation; amending
8 Section 13, Chapter 208, O.S.L. 2013 (85A O.S. Supp.
9 2020, Section 13), which relates to mental injury or
10 illness; modifying situations in which mental injury
11 or illness is a compensable injury; amending 85 O.S.
12 2011, Section 380, as amended by Section 45, Chapter
13 254, O.S.L. 2013 (85 O.S. Supp. 2020, Section 380),
14 which relates to volunteer firefighters group
15 insurance; modifying references; and providing an
16 effective date.

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

SECTION 1. AMENDATORY Section 13, Chapter 208, O.S.L.
2013 (85A O.S. Supp. 2020, Section 13), is amended to read as
follows:

Section 13. A. 1. A mental injury or illness is not a
compensable injury unless caused by a physical injury to the
employee, and shall not be considered an injury arising out of and
in the course and scope of employment or compensable unless
demonstrated by a preponderance of the evidence; provided, however,
that this physical injury limitation shall not apply to any victim

1 of a crime of violence or to a law enforcement officer, firefighter,
2 or emergency medical technician on a full-time basis by a
3 municipality, county, or the State of Oklahoma, or a volunteer
4 firefighter who suffers post traumatic stress disorder, as defined
5 herein, while responding to an emergency. For the purpose of this
6 section, such employee shall be referred to as a first responder.

7 2. No mental injury or illness under this section shall be
8 compensable unless it is also diagnosed by a licensed psychiatrist
9 or psychologist and unless the diagnosis of the condition meets the
10 criteria established in the ~~most current issue~~ Fourth Edition of the
11 Diagnostic and Statistical Manual of Mental Disorders.

12 B. 1. Notwithstanding any other provision of this act, where
13 a claim is for mental injury or illness, the employee shall be
14 limited to twenty-six (26) weeks of disability benefits unless it is
15 shown by clear and convincing evidence that benefits should continue
16 for a set period of time, not to exceed a total of fifty-two (52)
17 weeks. If the treating physician is of the opinion that the first
18 responder is temporarily unable to perform his or her job or any
19 alternative work offered by the employer, he or she shall be
20 entitled to receive compensation which is the greater of the weekly
21 benefit provided for in a collective bargaining agreement or
22 according to the policy of the employer, or seventy percent (70%) of
23 the injured employee's average weekly wage not to exceed the state
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1 average weekly wage. In no event shall disability benefits extend
2 beyond fifty-two (52) weeks.

3 2. a. In cases where death results directly from the mental
4 injury or illness within a period of one (1) year,
5 compensation shall be paid the dependents as provided
6 in other death cases under this act.

7 b. Death directly or indirectly related to the mental
8 injury or illness occurring one (1) year or more from
9 the incident resulting in the mental injury or illness
10 shall not be a compensable injury.

11 C. 1. In the event the Workers' Compensation Commission finds
12 that a first responder has suffered post traumatic stress disorder
13 not accompanied by a physical injury, as defined herein, the
14 employer shall provide reasonable and necessary medical treatment
15 for such injury, subject to the Oklahoma Workers' Compensation Fee
16 Schedule, for a period of no longer than one (1) year. The employer
17 shall not be responsible for medical treatment in the form of
18 prescription medicine in excess of Ten Thousand Dollars
19 (\$10,000.00).

20 2. During any period in which a first responder is temporarily
21 unable to perform his or her job, the employer shall pay to maintain
22 health insurance coverage for the first responder, if such health
23 insurance was in effect on the date of the injury.
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1 D. "Post traumatic stress disorder", for the purpose of this
2 section, means an injury or condition in which a first responder has
3 been exposed to a traumatic event and:

4 1. Has experienced, witnessed, or was confronted with an event
5 that involved actual or threatened death or serious injury, or a
6 threat to the physical integrity of others, and the response
7 involved fear, helplessness, or horror;

8 2. The traumatic event is persistently re-experienced in one
9 or more of the following ways;

10 a. recurrent and intrusive distressing recollections of
11 the event,

12 b. recurrent distressing dreams,

13 c. acting or feeling as if the traumatic event were
14 recurring,

15 d. intense psychological distress at exposure to cues
16 that symbolize an aspect of the traumatic event, or

17 e. physiological reactivity on exposure to cues that
18 symbolize an aspect of the traumatic event; and

19 3. Persistent avoidance of stimuli associated with the trauma
20 and numbing of general responsiveness such as efforts to avoid
21 thoughts, feelings or conversations associated with the trauma,
22 markedly diminished interest or participation in significant
23 activities, or a feeling of detachment or estrangement from others;
24 and

1 4. Persistent symptoms of increased arousal such as difficulty
2 falling or staying asleep, irritability or outbursts of anger,
3 difficulty concentrating, or hypervigilance;

4 5. The duration of the disturbance is more than one (1) month;
5 and

6 6. The disturbance causes clinically significant distress or
7 impairment in social, occupational and other important areas of
8 functioning.

9 E. "Volunteer firefighter", for the purpose of this section,
10 means a person who is enrolled as a member of a volunteer fire
11 department with two or less salaried firefighters and who serves in
12 such capacity without receiving a regular salary.

13 F. Emergency medical technician, for the purpose of this
14 section, means a person who holds a license as an emergency medical
15 technician, an intermediate or advanced emergency medical
16 technician, or a paramedic, such license issued by the Oklahoma
17 State Department of Health to perform emergency medical services in
18 accordance with the Oklahoma Emergency Response Systems Development
19 Act and the rules and standards promulgated by the State
20 Commissioner of Health.

21 SECTION 2. AMENDATORY 85 O.S. 2011, Section 380, as
22 amended by Section 45, Chapter 254, O.S.L. 2013 (85 O.S. Supp. 2020,
23 Section 380), is amended to read as follows:

1 Section 380. A. 1. Volunteer fire departments organized
2 pursuant to state law may obtain workers' compensation insurance for
3 volunteer firefighters through the Volunteer Firefighter Group
4 Insurance Pool pursuant to requirements established by ~~CompSource~~
5 ~~Mutual Insurance Company~~ the Office of Management and Enterprise
6 Services which shall administer the Pool. For the premium set by
7 ~~CompSource Mutual Insurance Company~~ the Office of Management and
8 Enterprise Services, the state shall provide Fifty-five Dollars
9 (\$55.00) per firefighter per year. Except as otherwise provided by
10 subsection D of this section, the total amount paid by the state
11 shall not exceed Three Hundred Twenty Thousand Three Hundred Thirty-
12 eight Dollars (\$320,338.00) per year or so much thereof as may be
13 necessary to fund the Volunteer Firefighter Group Insurance Pool.

14 2. ~~CompSource Mutual Insurance Company~~ The Office of Management
15 and Enterprise Services shall collect the premium from state
16 agencies, public trusts and other instrumentalities of the state.
17 Any funds received by ~~CompSource Mutual Insurance Company~~ the Office
18 of Management and Enterprise Services from any state agency, public
19 trust, or other instrumentality for purposes of workers'
20 compensation insurance pursuant to this section shall be deposited
21 to the credit of the Volunteer Firefighter Group Insurance Pool.
22 ~~CompSource Mutual Insurance Company~~ The Office of Management and
23 Enterprise Services shall collect premiums, pay claims, and provide
24 for excess insurance as needed.

1 B. ~~CompSource Mutual Insurance Company~~ The Office of Management
2 and Enterprise Services shall report, annually, to the Governor, the
3 Speaker of the Oklahoma House of Representatives, and the President
4 Pro Tempore of the State Senate the number of enrollees in the
5 Volunteer Firefighter Group Insurance Pool, and the amount of any
6 anticipated surplus or deficiency of the Pool; and shall also
7 provide to the Governor, the Speaker of the Oklahoma House of
8 Representatives and the President Pro Tempore of the State Senate
9 sixty (60) days advance notice of any proposed change in rates for
10 the Volunteer Firefighter Group Insurance Pool.

11 C. The amount of claims paid, claim expenses, underwriting
12 losses, loss ratio, or any other financial aspect of the Volunteer
13 Firefighter Group Insurance Pool shall not be considered when
14 determining or considering bids for the amount of any premiums,
15 rates, or expenses owed by, or any discounts, rebates, dividends, or
16 other financial benefits owed to any other policyholder of
17 ~~CompSource Mutual Insurance Company~~ the Office of Management and
18 Enterprise Services.

19 D. Except as otherwise provided by law, any increase in the
20 state payment rate for volunteer firefighters under the Volunteer
21 Firefighter Group Insurance Pool shall not exceed five percent (5%)
22 per annum. Any proposed change in rates for the Volunteer
23 Firefighter Group Insurance Pool must be approved by the ~~Board of~~
24 ~~Directors of CompSource Mutual Insurance Company~~ Office of

1 Management and Enterprise Services with notice provided pursuant to
2 subsection B of this section. ~~CompSource Mutual Insurance Company~~
3 The Office of Management and Enterprise Services shall not increase
4 premiums for the Volunteer Firefighter Group Insurance Pool more
5 than once per annum.

6 E. For purposes of this section, the term "volunteer fire
7 departments" includes those volunteer fire departments which have
8 authorized voluntary or uncompensated workers rendering services as
9 firefighters and are created by statute pursuant to Section 592 of
10 Title 18 of the Oklahoma Statutes, Sections 29-201 through 29-204 of
11 Title 11 of the Oklahoma Statutes, and those defined by Section 351
12 of Title 19 of the Oklahoma Statutes.

13 SECTION 3. This act shall become effective November 1, 2021.

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