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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1441

03/11/2013 Authored by Persell; Johnson, S.; Clark; Anzelc; Erickson, R., and others

The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries

1.1 A bill for an act
1.2 relating to workers' compensation; modifying the definitions of occupational
1.3 disease and personal injury; amending Minnesota Statutes 2012, section 176.011,
1.4 subdivisions 15, 16.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 176.011, subdivision 15, is amended to read:

1.7 Subd. 15. **Occupational disease.** (a) "Occupational disease" means a physical or
1.8 mental disease arising out of and in the course of employment peculiar to the occupation
1.9 in which the employee is engaged and due to causes in excess of the hazards ordinary of
1.10 employment and shall include undulant fever. An occupational disease arising from mental
1.11 stress is compensable only where there is exposure to conditions or circumstances beyond
1.12 the ordinary stresses of daily life. Ordinary diseases of life to which the general public is
1.13 equally exposed outside of employment are not compensable, except where the diseases
1.14 follow as an incident of an occupational disease, or where the exposure peculiar to the
1.15 occupation makes the disease an occupational disease hazard. A disease arises out of the
1.16 employment only if there be a direct causal connection between the conditions under which
1.17 the work is performed and if the occupational disease follows as a natural incident of the
1.18 work as a result of the exposure occasioned by the nature of the employment. An employer
1.19 is not liable for compensation for any occupational disease which cannot be traced to the
1.20 employment as a direct and proximate cause and is not recognized as a hazard characteristic
1.21 of and peculiar to the trade, occupation, process, or employment or which results from a
1.22 hazard to which the worker would have been equally exposed outside of the employment.

1.23 (b) If immediately preceding the date of disablement or death, an employee was
1.24 employed on active duty with an organized fire or police department of any municipality,

as a member of the Minnesota State Patrol, conservation officer service, state crime bureau, as a forest officer by the Department of Natural Resources, state correctional officer, or sheriff or full-time deputy sheriff of any county, and the disease is that of myocarditis, coronary sclerosis, pneumonia or its sequel, and at the time of employment such employee was given a thorough physical examination by a licensed doctor of medicine, and a written report thereof has been made and filed with such organized fire or police department, with the Minnesota State Patrol, conservation officer service, state crime bureau, Department of Natural Resources, Department of Corrections, or sheriff's department of any county, which examination and report negated any evidence of myocarditis, coronary sclerosis, pneumonia or its sequel, the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment. If immediately preceding the date of disablement or death, any individual who by nature of their position provides emergency medical care, or an employee who was employed as a licensed police officer under section 626.84, subdivision 1; firefighter; paramedic; state correctional officer; emergency medical technician; or licensed nurse providing emergency medical care; and who contracts an infectious or communicable disease to which the employee was exposed in the course of employment outside of a hospital, then the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment and the presumption may be rebutted by substantial factors brought by the employer or insurer. Any substantial factors which shall be used to rebut this presumption and which are known to the employer or insurer at the time of the denial of liability shall be communicated to the employee on the denial of liability.

(c) A firefighter on active duty with an organized fire department who is unable to perform duties in the department by reason of a disabling cancer of a type caused by exposure to heat, radiation, or a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and the carcinogen is reasonably linked to the disabling cancer, is presumed to have an occupational disease under paragraph (a). If a firefighter who enters the service after August 1, 1988, is examined by a physician prior to being hired and the examination discloses the existence of a cancer of a type described in this paragraph, the firefighter is not entitled to the presumption unless a subsequent medical determination is made that the firefighter no longer has the cancer.

Sec. 2. Minnesota Statutes 2012, section 176.011, subdivision 16, is amended to read:

Subd. 16. **Personal injury.** "Personal injury" means physical or mental injury arising out of and in the course of employment and includes personal injury caused by occupational disease; but does not cover an employee except while engaged in, on, or

3.1 about the premises where the employee's services require the employee's presence as a part
3.2 of that service at the time of the injury and during the hours of that service. Personal injury
3.3 arising from mental stress is compensable only where there is exposure to conditions or
3.4 circumstances beyond the ordinary stresses of daily life. Where the employer regularly
3.5 furnished transportation to employees to and from the place of employment, those
3.6 employees are subject to this chapter while being so transported. Personal injury does
3.7 not include an injury caused by the act of a third person or fellow employee intended to
3.8 injure the employee because of personal reasons, and not directed against the employee
3.9 as an employee, or because of the employment. An injury or disease resulting from a
3.10 vaccine in response to a declaration by the Secretary of the United States Department of
3.11 Health and Human Services under the Public Health Service Act to address an actual or
3.12 potential health risk related to the employee's employment is an injury or disease arising
3.13 out of and in the course of employment.