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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2106

03/06/2017 Authored by Howe and Theis  
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act  
1.2 relating to workers' compensation; creating a presumption of occupational disease  
1.3 for firefighters with certain forms of cancer; amending Minnesota Statutes 2016,  
1.4 section 176.011, subdivision 15.

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

1.6 Section 1. Minnesota Statutes 2016, section 176.011, subdivision 15, is amended to read:

1.7 Subd. 15. **Occupational disease.** (a) "Occupational disease" means a mental impairment  
1.8 as defined in paragraph (d) or physical disease arising out of and in the course of employment  
1.9 peculiar to the occupation in which the employee is engaged and due to causes in excess of  
1.10 the hazards ordinary of employment and shall include undulant fever. Physical stimulus  
1.11 resulting in mental injury and mental stimulus resulting in physical injury shall remain  
1.12 compensable. Mental impairment is not considered a disease if it results from a disciplinary  
1.13 action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement,  
1.14 or similar action taken in good faith by the employer. Ordinary diseases of life to which the  
1.15 general public is equally exposed outside of employment are not compensable, except where  
1.16 the diseases follow as an incident of an occupational disease, or where the exposure peculiar  
1.17 to the occupation makes the disease an occupational disease hazard. A disease arises out of  
1.18 the employment only if there be a direct causal connection between the conditions under  
1.19 which the work is performed and if the occupational disease follows as a natural incident  
1.20 of the work as a result of the exposure occasioned by the nature of the employment. An  
1.21 employer is not liable for compensation for any occupational disease which cannot be traced  
1.22 to the employment as a direct and proximate cause and is not recognized as a hazard  
1.23 characteristic of and peculiar to the trade, occupation, process, or employment or which

2.1 results from a hazard to which the worker would have been equally exposed outside of the  
2.2 employment.

2.3 (b) If immediately preceding the date of disablement or death, an employee was employed  
2.4 on active duty with an organized fire or police department of any municipality, as a member  
2.5 of the Minnesota State Patrol, conservation officer service, state crime bureau, as a forest  
2.6 officer by the Department of Natural Resources, state correctional officer, or sheriff or  
2.7 full-time deputy sheriff of any county, and the disease is that of myocarditis, coronary  
2.8 sclerosis, pneumonia or its sequel, and at the time of employment such employee was given  
2.9 a thorough physical examination by a licensed doctor of medicine, and a written report  
2.10 thereof has been made and filed with such organized fire or police department, with the  
2.11 Minnesota State Patrol, conservation officer service, state crime bureau, Department of  
2.12 Natural Resources, Department of Corrections, or sheriff's department of any county, which  
2.13 examination and report negated any evidence of myocarditis, coronary sclerosis, pneumonia  
2.14 or its sequel, the disease is presumptively an occupational disease and shall be presumed  
2.15 to have been due to the nature of employment. If immediately preceding the date of  
2.16 disablement or death, any individual who by nature of their position provides emergency  
2.17 medical care, or an employee who was employed as a licensed police officer under section  
2.18 626.84, subdivision 1; firefighter; paramedic; state correctional officer; emergency medical  
2.19 technician; or licensed nurse providing emergency medical care; and who contracts an  
2.20 infectious or communicable disease to which the employee was exposed in the course of  
2.21 employment outside of a hospital, then the disease is presumptively an occupational disease  
2.22 and shall be presumed to have been due to the nature of employment and the presumption  
2.23 may be rebutted by substantial factors brought by the employer or insurer. Any substantial  
2.24 factors which shall be used to rebut this presumption and which are known to the employer  
2.25 or insurer at the time of the denial of liability shall be communicated to the employee on  
2.26 the denial of liability.

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

3.1 (d) Notwithstanding paragraph (c), an active duty firefighter or volunteer firefighter  
 3.2 with an organized fire department, who has been employed with the fire department at least  
 3.3 five years before the date of disablement, and who is examined by a physician prior to being  
 3.4 hired and the examination does not disclose the existence of one of the cancers listed in  
 3.5 clauses (1) to (14), is presumed to have an occupational disease under paragraph (a) if the  
 3.6 firefighter is found to have one of the following types of cancer:

3.7 (1) testicular cancer;

3.8 (2) multiple myeloma;

3.9 (3) non-Hodgkin's lymphoma;

3.10 (4) brain cancer;

3.11 (5) malignant melanoma;

3.12 (6) skin cancer;

3.13 (7) breast cancer;

3.14 (8) leukemia;

3.15 (9) colon cancer;

3.16 (10) prostate cancer;

3.17 (11) mesothelioma;

3.18 (12) bladder cancer;

3.19 (13) kidney cancer; or

3.20 (14) rectal cancer.

3.21 A retired firefighter, including a retired volunteer firefighter, is entitled to the presumption  
 3.22 under this paragraph if the firefighter was employed by an organized fire department at least  
 3.23 five years, and one of the cancers listed in clauses (1) to (14) is discovered up to five years  
 3.24 past the last date of employment.

3.25 ~~(d)~~ (e) For the purposes of this chapter, "mental impairment" means a diagnosis of  
 3.26 post-traumatic stress disorder by a licensed psychiatrist or psychologist. For the purposes  
 3.27 of this chapter, "post-traumatic stress disorder" means the condition as described in the most  
 3.28 recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by  
 3.29 the American Psychiatric Association. For purposes of section 79.34, subdivision 2, one or  
 3.30 more compensable mental impairment claims arising out of a single event or occurrence  
 3.31 shall constitute a single loss occurrence.

4.1 Sec. 2. **REVISOR'S INSTRUCTION.**

4.2 The revisor of statutes shall make any cross-reference changes to Minnesota Statutes  
4.3 needed as a result of the relettering of paragraphs in section 1.