

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 3508

(SENATE AUTHORS: SCHMIT and Hoffman)

DATE	D-PG	OFFICIAL STATUS
04/11/2016	5800	Introduction and first reading Referred to Jobs, Agriculture and Rural Development

1.1

A bill for an act

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relating to workers' compensation; modifying occupational disease provisions;

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amending Minnesota Statutes 2014, section 176.011, subdivision 15.

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

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Section 1. Minnesota Statutes 2014, section 176.011, subdivision 15, is amended to read:

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Subd. 15. **Occupational disease.** (a) "Occupational disease" means a mental

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impairment as defined in paragraph (d) or physical disease arising out of and in the

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course of employment peculiar to the occupation in which the employee is engaged

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and due to causes in excess of the hazards ordinary of employment and shall include

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undulant fever. Physical stimulus resulting in mental injury and mental stimulus resulting

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in physical injury shall remain compensable. Mental impairment is not considered a

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disease if it results from a disciplinary action, work evaluation, job transfer, layoff,

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demotion, promotion, termination, retirement, or similar action taken in good faith by the

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employer. Ordinary diseases of life to which the general public is equally exposed outside

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of employment are not compensable, except where the diseases follow as an incident of an

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occupational disease, or where the exposure peculiar to the occupation makes the disease

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an occupational disease hazard. A disease arises out of the employment only if there be a

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direct causal connection between the conditions under which the work is performed and

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if the occupational disease follows as a natural incident of the work as a result of the

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exposure occasioned by the nature of the employment. An employer is not liable for

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compensation for any occupational disease which cannot be traced to the employment as a

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direct and proximate cause and is not recognized as a hazard characteristic of and peculiar

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to the trade, occupation, process, or employment or which results from a hazard to which

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the worker would have been equally exposed outside of the employment.

(b) If immediately preceding the date of disablement or death, an employee was 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.

(d) For the purposes of this chapter, "mental impairment" means a diagnosis of post-traumatic stress disorder by a licensed psychiatrist or psychologist. For the purposes of this chapter, "post-traumatic stress disorder" means the condition as described in

the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association. For purposes of section 79.34, subdivision 2, one or more compensable mental impairment claims arising out of a single event or occurrence shall constitute a single loss occurrence.

(e) If, preceding the date of disablement or death, an employee who was employed (1) as a licensed police officer under section 626.84, subdivision 1; firefighter; paramedic; emergency medical technician; or licensed nurse providing emergency medical care; or (2) on active duty as a forest officer by the Department of Natural Resources, state correctional officer, sheriff or full-time deputy sheriff of any county; or a member of the Minnesota State Patrol, conservation officer service, state crime bureau, is diagnosed with a mental impairment as defined in paragraph (d), and had not been diagnosed with the mental impairment previously, then the mental impairment is presumptively an occupational disease and shall be presumed to have been due to the nature of employment. The mental impairment is not considered an occupational disease if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action taken in good faith by the employer.