



House of Representatives

General Assembly

File No. 432

January Session, 2003

Substitute House Bill No. 5190

House of Representatives, April 17, 2003

The Committee on Public Health reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE
FOR EMERGENCY SERVICES PERSONNEL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) (a) As used in this
2 section:

3 (1) "Body fluids" means blood and body fluids containing visible
4 blood and other body fluids to which universal precautions for
5 prevention of occupational transmission of blood-borne pathogens, as
6 established by the National Centers for Disease Control, apply. For
7 purposes of potential transmission of meningococcal meningitis or
8 tuberculosis, the term "body fluids" includes respiratory, salivary and
9 sinus fluids, including droplets, sputum and saliva, mucous and other
10 fluids through which infectious airborne organisms can be transmitted
11 between persons.

12 (2) "Emergency rescue or public safety worker" means a local or

13 state police officer, state marshal, judicial marshal, correction officer,
14 emergency medical technician, medical response technician,
15 paramedic, ambulance driver, firefighter, active member of a volunteer
16 fire company or fire department engaged in volunteer duties, or active
17 member of an organization certified as a volunteer ambulance service
18 in accordance with section 19a-180 of the general statutes who, in the
19 course of employment, runs a high risk of occupational exposure to
20 hepatitis, meningococcal meningitis or tuberculosis.

21 (3) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A,
22 hepatitis non-B, hepatitis C or any other strain of hepatitis generally
23 recognized by the medical community.

24 (4) "High risk of occupational exposure" means risk that is incurred
25 because a person subject to the provisions of this section, in
26 performing the basic duties associated with such person's
27 employment:

28 (A) Provides emergency medical treatment in a nonhealthcare
29 setting where there is a potential for transfer of body fluids between
30 persons;

31 (B) At the site of an accident, fire or other rescue or public safety
32 operation, or in an emergency rescue or public safety vehicle, handles
33 body fluids in or out of containers or works with or otherwise handles
34 needles or other sharp instruments exposed to body fluids;

35 (C) Engages in the pursuit, apprehension or arrest of law violators
36 or suspected law violators and, in performing such duties, may be
37 exposed to body fluids; or

38 (D) Is responsible for the custody and physical restraint, when
39 necessary, of prisoners or inmates within a prison, jail or other criminal
40 detention facility, while on work detail outside the facility or while
41 being transported and, in performing such duties, may be exposed to
42 body fluids.

43 (5) "Occupational exposure", in the case of hepatitis, meningococcal

44 meningitis or tuberculosis, means an exposure that occurs during the
45 performance of job duties that may place a worker at risk of infection.

46 (b) Any emergency rescue or public safety worker who suffers a
47 condition or impairment of health that is caused by hepatitis,
48 meningococcal meningitis or tuberculosis that requires medical
49 treatment, and that results in total or partial incapacity or death shall
50 be presumed to have sustained such condition or impairment of health
51 in the course of employment and shall be entitled to receive workers'
52 compensation benefits pursuant to chapter 568 of the general statutes,
53 unless the contrary is shown by competent evidence, provided:

54 (1) The emergency rescue or public safety worker has, prior to
55 diagnosis, undergone standard, medically acceptable tests for evidence
56 of the communicable disease for which the presumption is sought or
57 for evidence of medical conditions derived therefrom, which tests
58 failed to indicate the presence of infection, or in the case of hepatitis
59 infection, shall have banked serum for future testing, which future
60 tests fail to reveal evidence of infection; and

61 (2) The emergency rescue or public safety worker presents a written
62 affidavit verifying by written declaration that, to the best of the
63 worker's knowledge and belief:

64 (A) In the case of meningococcal meningitis, in the ten days
65 immediately preceding diagnosis, the worker was not exposed, outside
66 the scope of employment, to any person known to have meningococcal
67 meningitis or known to be an asymptomatic carrier of the disease.

68 (B) In the case of tuberculosis, in the period of time since the
69 worker's last negative tuberculosis skin test, the worker has not been
70 exposed, outside the scope of employment, to any person known by
71 the worker to have tuberculosis.

72 (c) The employing agency shall maintain a record of any known or
73 reasonably suspected exposure of an emergency rescue or public safety
74 worker in its employ to the diseases described in this section and shall

75 immediately notify the employee of such exposure. An emergency
 76 rescue or public safety worker shall file an incident or accident report
 77 with the worker's employer of each instance of known or suspected
 78 occupational exposure to hepatitis infection, meningococcal meningitis
 79 or tuberculosis.

80 Sec. 2. Subparagraph (A) of subdivision (1) of section 31-275 of the
 81 general statutes is repealed and the following is substituted in lieu
 82 thereof (*Effective October 1, 2003*):

83 (A) (i) For a police officer or firefighter, "in the course of his
 84 employment" encompasses such individual's departure from such
 85 individual's place of abode to duty, such individual's duty, and the
 86 return to such individual's place of abode after duty.

87 (ii) For a police officer, firefighter or emergency medical technician
 88 employed by the state or any of its political subdivisions, "in the course
 89 of his employment" encompasses an accidental death, disability or
 90 injury that occurs while such individual is responding to an
 91 emergency outside of the individual's regular hours of employment.

92 [(ii)] (iii) Notwithstanding the provisions of clause (i) of this
 93 subparagraph, the dependents of any deceased employee of the
 94 Department of Correction who was injured in the course of his
 95 employment, as defined in this subparagraph, on or after July 1, 2000,
 96 and who died not later than July 15, 2000, shall be paid compensation
 97 on account of the death, in accordance with the provisions of section
 98 31-306, retroactively to the date of the employee's death. The cost of the
 99 payment shall be paid by the employer or its insurance carrier which
 100 shall be reimbursed for such cost from the Second Injury Fund as
 101 provided in section 31-354 upon presentation of any vouchers and
 102 information that the Treasurer may require.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>

LAB *Joint Favorable Subst. C/R*

PH

PH *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Workers' Comp. Claims-Admin. Serv. Dept.; Correction, Dept.; Mental Retardation, Dept.; Mental Health & Addiction Serv., Dept.; Children & Families, Dept.; Public Safety, Dept.	GF - Cost	Potential Significant	Potential Significant
Workers' Comp. Claims-Admin. Serv. Dept.	TF - Cost	Potential Significant	Potential Significant
Treasurer	SIF - Cost	15,000 to 30,000	20,000 to 40,000

Note: GF=General Fund; TF=Transportation Fund; SIF=Second Injury Fund

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
All Municipalities	STATE MANDATE - Cost	Potential Significant	Potential Significant

Explanation

This bill establishes a rebuttable presumption that public safety or emergency rescue personnel who contract hepatitis, meningitis, or tuberculosis got the condition from the workplace and are eligible to receive workers' compensation benefits. The bill also would extend workers' compensation benefits to state and local police officers, firefighters or emergency services personnel who respond to emergencies outside their regular work hours.

The fiscal impact to the state and municipalities (in particular those municipalities that are self-insured) could be potentially significant. Workers' compensation liability for each case of hepatitis, meningitis, or tuberculosis is estimated to be as high as \$750,000 - \$1,500,000 per

case, depending on the age of the claimant and the severity of the disease. The bill is also estimated to result in costs to the Second Injury Fund of approximately \$15,000 - \$30,000 in FY 04 and \$20,000 - \$40,000 in FY 05.

It is not known how many public safety and emergency rescue personnel contract these diseases. In 2001 and 2002, there were approximately five to seven cases concerning these diseases brought before the Workers' Compensation Commission, with nearly all determined in favor of the claimant.

Establishing a rebuttable presumption shifts the burden of proof to the employer or insurer to attempt to refute the employee's claim that the disease was contracted on the job. Under current law, such persons seeking workers' compensation benefits have the burden of proving that they contracted the disease from the workplace. In order to be entitled to the rebuttable presumption, the worker must have undergone medical tests prior to the diagnosis and tested negative (or banked blood for future testing in the case of hepatitis) and, in the case of meningitis and tuberculosis provide a written affidavit that he was not exposed to any person known to have the disease outside of work. The bill also requires emergency rescue and public safety workers to file reports about exposures and requires employers to maintain records of such exposures. Since the bill establishes these substantive changes in workers' compensation coverage on the effective date of the act of October 1, 2003, only claims filed on or after that date could be considered under the rebuttable presumption provisions.

Under current practice, the state would not contest workers' compensation cases for public safety and emergency personnel who respond to emergencies outside of regular work hours. Therefore, this provision of the bill will result in a minimal fiscal impact, which would not require additional funding.

OLR Bill Analysis

sHB 5190

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR EMERGENCY SERVICES PERSONNEL**SUMMARY:**

This bill establishes a presumption that emergency rescue or public safety personnel who contract hepatitis, meningococcal meningitis, or tuberculosis from their employment are eligible for workers' compensation benefits as long as they meet certain requirements. To be eligible, an employee must present a written affidavit stating he has not been knowingly exposed to anyone with tuberculosis or meningitis outside of work and, prior to diagnosis, a medical test has found him free of infection. For hepatitis, the employee must, prior to exposure, bank serum for future testing, which later reveals no evidence of infection. (The bill does not require an affidavit for those who contract hepatitis.) Under current law, such an employee could qualify for workers' compensation benefits, but the employee must prove the exposure took place on the job.

The bill defines the types of emergency rescue and public safety personnel and the high-risk occupational exposure that it covers. It also requires the employers to keep records of any known or reasonably suspected exposure and to notify workers of any potential exposure. Also, the workers must file incident or accident reports with the employer for each on-the-job instance of known or suspected exposure to hepatitis, meningitis, or tuberculosis.

The bill also extends workers' compensation coverage to state and local police officers, firefighters, and emergency medical technicians when they respond to emergencies outside their regular work hours.

EFFECTIVE DATE: October 1, 2003

DEFINITIONS***Emergency Rescue or Public Safety Worker***

The bill defines these employees as local or state police officers, state

marshals, judicial marshals, correction officers, emergency medical technicians, medical response technicians, paramedics, ambulance drivers, firefighters, active volunteer fire company members, or active volunteer ambulance service members who, in the course of their work, run a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis.

High Risk of Occupational Exposure

“High risk of occupational exposure” is defined under the bill as the risk to personnel who:

1. provide emergency medical treatment in non-healthcare settings with potential for the transfer of body fluids between persons;
2. handle body fluids in or out of containers or work with needles or other sharp instruments exposed to body fluids at the site of an accident, fire, or other public safety operation, or in an emergency rescue or public safety vehicle;
3. pursue, apprehend, or arrest law violators or suspected violators and, in performing such duties, may be exposed to body fluids; or
4. are responsible for the custody and physical restraint, when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or outside the facility for work detail or transportation, may be exposed to body fluids.

Body Fluids

“Body fluids” mean blood and body fluids containing visible blood and other body fluids to which the National Centers for Disease Control universal precautions for occupational transmission of blood-borne pathogens apply. For purposes of potential transmission of meningococcal meningitis or tuberculosis, the definition includes respiratory, salivary and sinus fluids, including droplets, sputum and saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted.

Hepatitis

The bill defines hepatitis to include hepatitis A, B, C, non-A, non-B, or any other strain of hepatitis generally recognized by the medical community.

WRITTEN AFFIDAVITS

The bill makes specific requirements of the affidavits employees must submit for meningitis and tuberculosis, but does not require an affidavit for hepatitis.

The affidavit for meningococcal meningitis must state that, in the 10 days immediately preceding diagnosis, the worker was not exposed, outside the scope of work, to anyone known to have meningitis or to be an asymptomatic carrier of the disease. In the case of tuberculosis, it must state, in the period of time since the worker's last negative tuberculosis skin test, the worker has not been exposed, outside the scope of work, to any person known by the worker to have tuberculosis.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference
Yea 13 Nay 0

Public Health Committee

Joint Favorable Report
Yea 21 Nay 0