



Senate

General Assembly

File No. 604

January Session, 2005

Substitute Senate Bill No. 956

Senate, May 2, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PORTAL-TO-PORTAL WORKERS' COMPENSATION COVERAGE FOR CORRECTION OFFICERS AND EMERGENCY MEDICAL SERVICES DISPATCHERS AND CLAIMS FOR COMPENSATION BY DEPENDENTS OF DECEASED EMPLOYEES.

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

1 Section 1. Subdivision (1) of section 31-275 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2005*):

4 (1) "Arising out of and in the course of his employment" means an
5 accidental injury happening to an employee or an occupational disease
6 of an employee originating while the employee has been engaged in
7 the line of the employee's duty in the business or affairs of the
8 employer upon the employer's premises, or while engaged elsewhere
9 upon the employer's business or affairs by the direction, express or
10 implied, of the employer, provided:

11 (A) (i) For a police officer or firefighter, "in the course of his
12 employment" encompasses such individual's departure from such
13 individual's place of abode to duty, such individual's duty, and the
14 return to such individual's place of abode after duty;

15 (ii) For an employee of the Department of Correction, (I) when
16 responding to a direct order to appear at his or her work assignment
17 under circumstances in which nonessential employees are excused
18 from working, or (II) following two or more mandatory overtime work
19 shifts on consecutive days, "in the course of his employment"
20 encompasses such individual's departure from such individual's place
21 of abode directly to duty, such individual's duty, and the return
22 directly to such individual's place of abode after duty;

23 (iii) For an individual employed as a dispatcher for an emergency
24 medical services provider, (I) when responding to a direct order to
25 appear at his or her work assignment under circumstances in which
26 nonessential employees are excused from working, or (II) following
27 two or more mandatory overtime work shifts on consecutive days, "in
28 the course of his employment" encompasses such individual's
29 departure from such individual's place of abode directly to duty, such
30 individual's duty, and the return directly to such individual's place of
31 abode after duty;

32 [(ii)] (iv) Notwithstanding the provisions of [clause] clauses (i) and
33 (ii) of this subparagraph, the dependents of any deceased employee of
34 the Department of Correction who was injured in the course of his
35 employment, as defined in this subparagraph, on or after July 1, 2000,
36 and who died not later than July 15, 2000, shall be paid compensation
37 on account of the death, in accordance with the provisions of section
38 31-306, retroactively to the date of the employee's death. The cost of the
39 payment shall be paid by the employer or its insurance carrier which
40 shall be reimbursed for such cost from the Second Injury Fund as
41 provided in section 31-354 upon presentation of any vouchers and
42 information that the Treasurer may require;

43 (B) A personal injury shall not be deemed to arise out of the

44 employment unless causally traceable to the employment other than
45 through weakened resistance or lowered vitality;

46 (C) In the case of an accidental injury, a disability or a death due to
47 the use of alcohol or narcotic drugs shall not be construed to be a
48 compensable injury;

49 (D) For aggravation of a preexisting disease, compensation shall be
50 allowed only for that proportion of the disability or death due to the
51 aggravation of the preexisting disease as may be reasonably attributed
52 to the injury upon which the claim is based;

53 (E) A personal injury shall not be deemed to arise out of the
54 employment if the injury is sustained: (i) At the employee's place of
55 abode, and (ii) while the employee is engaged in a preliminary act or
56 acts in preparation for work unless such act or acts are undertaken at
57 the express direction or request of the employer;

58 (F) For purposes of subparagraph (C) of this subdivision, "narcotic
59 drugs" means all controlled substances, as designated by the
60 Commissioner of Consumer Protection pursuant to subsection (c) of
61 section 21a-243, but does not include drugs prescribed in the course of
62 medical treatment or in a program of research operated under the
63 direction of a physician or pharmacologist. For purposes of
64 subparagraph (E) of this subdivision, "place of abode" includes the
65 inside of the residential structure, the garage, the common hallways,
66 stairways, driveways, walkways and the yard;

67 (G) The Workers' Compensation Commission shall adopt
68 regulations, in accordance with the provisions of chapter 54, to
69 implement the provisions of this section and shall define the terms "a
70 preliminary act", [and] "acts in preparation for work", "departure from
71 place of abode directly to duty" and "return directly to place of abode
72 after duty" on or before [October 1, 1995] January 1, 2006.

73 Sec. 2. Section 31-294c of the general statutes is amended by adding
74 subsection (d) as follows (*Effective from passage and applicable to claims*

75 *pending on or filed on and after said date):*

76 (NEW) (d) Notwithstanding the provisions of subsection (a) of this
77 section, a dependent or dependents of a deceased employee seeking
78 compensation under section 31-306 of the general statutes shall not be
79 required to give a written notice of claim for compensation to the
80 employer or any commissioner if such employee had filed a timely
81 written notice of claim for compensation in accordance with subsection
82 (a) of this section prior to such employee's death.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	31-275(1)
Sec. 2	<i>from passage and applicable to claims pending on or filed on and after said date</i>	31-294c

LAB *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.*

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-Effect	FY 06 \$	FY 07 \$
Correction, Dept.	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

Explanation

This bill provides Department of Correction (DOC) employees and emergency medical services dispatchers workers' compensation coverage in two specific portal-to-portal situations: going directly to work in response to a direct order to report to work when nonessential employees are excused from working; or going directly home after two or more mandatory over time work shifts on consecutive days.

This bill will result in increased workers' compensation costs to the DOC and certain municipalities. The extent of these costs depends on how many employees are injured under the bill's specific situations. This bill is a state mandate on those municipalities that have emergency medical services dispatchers.

There are approximately 5,920 DOC employees who are classified as essential personnel that would be eligible for workers' compensation benefits if they sustain injuries traveling between home and work under the specific conditions in the bill. It is not known at this time how many emergency medical services dispatchers would be eligible for workers' compensation benefits under the certain conditions in the

bill.

The bill also waives a requirement that a deceased employee's dependent file a claim for workers' compensation death benefits if the employee filed a timely claim related to the same illness or injury before his death. This is not expected to have an impact on future workers' compensation death benefits claims. It is indeterminate how this will impact any pending claims.

OLR Bill Analysis

sSB 956

AN ACT CONCERNING PORTAL-TO-PORTAL WORKERS' COMPENSATION COVERAGE FOR CORRECTION OFFICERS AND EMERGENCY MEDICAL SERVICES DISPATCHERS AND CLAIMS FOR COMPENSATION BY DEPENDENTS OF DECEASED EMPLOYEES**SUMMARY:**

Under current law, police officers and firefighters receive workers' compensation coverage when they travel between home and work (known as portal-to-portal coverage). This bill gives Department of Correction (DOC) employees and emergency medical services dispatchers this coverage in two specific situations: (1) going directly to work in response to a direct order to report to work when nonessential employees are excused from working, or (2) going directly home after two or more mandatory overtime work shifts on consecutive days. This means that the employees are eligible for compensation if injured during such travel.

The bill requires the Workers' Compensation Commission to adopt regulations, on or before January 1, 2006, that implement the bill and define "departure from place of abode directly to duty," and "return directly to place of abode after duty." The definitions apply to DOC employees and emergency medical services dispatchers.

The bill waives a requirement that a deceased employee's dependent or dependents file a claim for workers' compensation death benefits if the employee filed a timely claim related to the same illness or injury before his death. Under current law, dependents (1) must file a claim for death benefits even if the deceased employee had filed a claim for the same illness or injury, and (2) the claim must be filed within two years of the illness or injury that caused the death or within one year of the death, whichever is later.

By law, the deceased employee's claim is considered timely if it is made within one year from the accident date or three years from the first manifestation of a symptom.

EFFECTIVE DATE: October 1, 2005, except for the provision regarding workers' compensation death benefit claims, which is effective upon passage and applicable to claims pending on, filed on, and after the effective date.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 8 Nay 3

Judiciary Committee

Joint Favorable Substitute

Yea 27 Nay 13