



# House of Representatives

General Assembly

**File No. 39**

February Session, 2006

House Bill No. 5037

*House of Representatives, March 20, 2006*

The Committee on Labor and Public Employees reported through REP. RYAN, K. of the 139th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE  
FOR CERTAIN OCCUPATIONAL DISEASES 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, 2006*) (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 non-health-care  
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, within one  
55 year prior to diagnosis, undergone standard, medically acceptable tests  
56 for evidence of the communicable disease for which the presumption  
57 is sought or for evidence of medical conditions derived from such  
58 communicable disease, which tests failed to indicate the presence of  
59 infection, or in the case of hepatitis infection, shall have banked serum  
60 for future testing, which future tests fail to reveal evidence of infection;  
61 and

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

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

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

73 (c) The employing agency shall maintain a record of any known or  
74 reasonably suspected exposure of an emergency rescue or public safety

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section

**LAB**      *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-Effect	FY 07 \$	FY 08 \$
Department of Administrative Services - Workers' Comp. Claims	GF - Cost	Potential Significant	Potential Significant
Correction, Dept.; Public Safety, Dept.	GF - Cost	Potential Significant	Potential Significant
Treasurer	SIF - Cost	Minimal	Minimal

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

**Municipal Impact:**

Municipalities	Effect	FY 07 \$	FY 08 \$
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 entitled to workers' compensation benefits.

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 - \$2,500,000 per case, depending on the age of the claimant and the severity of the disease. It is estimated that this bill will result in a minimal cost to the Second Injury Fund.

It is not known how many public safety and emergency rescue personnel contract these diseases. In 2005, there were 8 claims concerning these diseases filed with the Workers' Compensation

Commission from the population of all public and private sector employees in the state.<sup>1</sup> This bill applies to over 45,000 state and municipal emergency rescue and public safety workers.<sup>2</sup>

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. Since the bill establishes these substantive changes in workers' compensation coverage on the effective date of the act, October 1, 2006, only claims filed on or after that date could be considered under the rebuttable presumption provisions.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>1</sup> In 2004, 8 claims involving these diseases were filed with the Workers' Compensation Commission. In 2003, there were 18 claims filed.

<sup>2</sup> This includes, for example, local and state police officers, correction officers, career or volunteer firefighters and judicial marshals.

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**OLR Bill Analysis**  
**HB 5037*****AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR CERTAIN OCCUPATIONAL DISEASES FOR EMERGENCY SERVICES PERSONNEL.*****SUMMARY:**

This bill creates a rebuttable presumption that an emergency rescue or public safety worker who develops hepatitis, meningococcal meningitis, or tuberculosis got the condition from work and is entitled to workers' compensation benefits. To be compensable, the condition must require medical treatment and result in (1) total or partial incapacity or (2) death. The bill requires such workers to have tested negative for the condition previously and, in cases of meningitis and tuberculosis, swear they were not exposed to the claimed condition outside of work. For hepatitis, the employee must, prior to exposure, bank serum for future testing, which later reveals no evidence of infection. Under current law, any condition or injury must be causally traceable to the worker's employment before he can be compensated.

The bill also requires (1) emergency rescue and public safety workers to file reports about exposures and (2) their employers to maintain records of exposures.

EFFECTIVE DATE: October 1, 2006

**EMERGENCY RESCUE AND PUBLIC SAFETY WORKERS**

The bill applies to emergency rescue and public safety workers who run a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis in their work. These are individuals who work as state or local police officers, state or judicial marshals, correction officers, emergency medical or medical response

technicians, paramedics, ambulance drivers, firefighters, active members of volunteer fire companies or departments engaged in volunteer duties, or active members of volunteer ambulance services.

“High risk of occupational exposure” means a risk incurred because a person, in performing his basic duties:

1. provides emergency medical treatment outside of a healthcare setting where there is a potential for transferring body fluids;
2. handles body fluids, needles, or other sharp instruments exposed to body fluids at the site of an accident, fire, or other rescue or safety operation or in an emergency rescue or public safety vehicle;
3. may be exposed to body fluids while engaged in the pursuit, apprehension, or arrest of law or suspected law violators; or
4. may be exposed to body fluids when responsible for the custody and physical restraint of prisoners or other detainees.

“Body fluids” are blood, fluids containing blood, and other body fluids for which universal precautions apply. For purposes of meningococcal meningitis or tuberculosis, they include respiratory, salivary, and sinus droplets that can transmit infectious airborne organisms.

### **MEDICAL TESTS AND AFFIDAVITS**

In order to be entitled to the rebuttable presumption, the worker must (1) have undergone medical tests within one year prior to diagnosis for the condition for which benefits are sought and tested negative (or in cases of hepatitis must have banked blood for future testing). In cases of meningitis, he must present a written affidavit that in the 10 days prior to diagnosis, he was not exposed outside of work to anyone having or carrying the disease. In cases of tuberculosis, he must present a written affidavit that he was not exposed outside of work to anyone known to have the disease since his last negative test.

**RECORDS**

Emergency rescue and public safety workers must file a report with their employer about each known or suspected occupational exposure to hepatitis, meningitis, or tuberculosis.

Employing agencies must maintain a record of known or reasonably suspected cases of exposure and must notify the employee of such exposures immediately.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 11    Nay 2    (03/07/2006)