



House of Representatives

General Assembly

File No. 392

February Session, 2008

House Bill No. 5116

House of Representatives, April 3, 2008

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT PROVIDING PORTAL TO PORTAL WORKERS' COMPENSATION COVERAGE FOR POLICE OFFICERS AND CONSERVATION OFFICERS EMPLOYED BY THE STATE OF CONNECTICUT.

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

1 Section 1. Section 31-275 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 As used in this chapter, unless the context otherwise provides:

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, conservation officer, or

12 employee of the Department of Environmental Protection appointed as
13 a special conservation officer pursuant to section 26-5, "in the course of
14 his employment" encompasses such individual's departure from such
15 individual's place of abode to duty, such individual's duty, and the
16 return to such individual's place of abode after duty;

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

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

36 (B) A personal injury shall not be deemed to arise out of the
37 employment unless causally traceable to the employment other than
38 through weakened resistance or lowered vitality;

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

42 (D) For aggravation of a preexisting disease, compensation shall be
43 allowed only for that proportion of the disability or death due to the

44 aggravation of the preexisting disease as may be reasonably attributed
45 to the injury upon which the claim is based;

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

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

60 (G) The Workers' Compensation Commission shall adopt
61 regulations, in accordance with the provisions of chapter 54, to
62 implement the provisions of this section and shall define the terms "a
63 preliminary act", "acts in preparation for work", "departure from place
64 of abode directly to duty" and "return directly to place of abode after
65 duty" on or before January 1, 2006.

66 (2) "Commission" means the Workers' Compensation Commission.

67 (3) "Commissioner" means the compensation commissioner who has
68 jurisdiction in the matter referred to in the context.

69 (4) "Compensation" means benefits or payments mandated by the
70 provisions of this chapter, including, but not limited to, indemnity,
71 medical and surgical aid or hospital and nursing service required
72 under section 31-294d and any type of payment for disability, whether
73 for total or partial disability of a permanent or temporary nature, death
74 benefit, funeral expense, payments made under the provisions of

75 section 31-284b, 31-293a or 31-310, or any adjustment in benefits or
76 payments required by this chapter.

77 (5) "Date of the injury" means, for an occupational disease, the date
78 of total or partial incapacity to work as a result of such disease.

79 (6) "Dependent" means a member of the injured employee's family
80 or next of kin who was wholly or partly dependent upon the earnings
81 of the employee at the time of the injury.

82 (7) "Dependent in fact" means a person determined to be a
83 dependent of an injured employee, in any case where there is no
84 presumptive dependent, in accordance with the facts existing at the
85 date of the injury.

86 (8) "Disfigurement" means impairment of or injury to the beauty,
87 symmetry or appearance of a person that renders the person unsightly,
88 misshapen or imperfect, or deforms the person in some manner, or
89 otherwise causes a detrimental change in the external form of the
90 person.

91 (9) (A) "Employee" means any person who:

92 (i) Has entered into or works under any contract of service or
93 apprenticeship with an employer, whether the contract contemplated
94 the performance of duties within or without the state;

95 (ii) Is a sole proprietor or business partner who accepts the
96 provisions of this chapter in accordance with subdivision (10) of this
97 section;

98 (iii) Is elected to serve as a member of the General Assembly of this
99 state;

100 (iv) Is a salaried officer or paid member of any police department or
101 fire department;

102 (v) Is a volunteer police officer, whether the officer is designated as
103 special or auxiliary, upon vote of the legislative body of the town, city

104 or borough in which the officer serves;

105 (vi) Is an elected or appointed official or agent of any town, city or
106 borough in the state, upon vote of the proper authority of the town,
107 city or borough, including the elected or appointed official or agent,
108 irrespective of the manner in which he or she is appointed or
109 employed. Nothing in this subdivision shall be construed as affecting
110 any existing rights as to pensions which such persons or their
111 dependents had on July 1, 1927, or as preventing any existing custom
112 of paying the full salary of any such person during disability due to
113 injury arising out of and in the course of his or her employment; or

114 (vii) Is an officer or enlisted person of the National Guard or other
115 armed forces of the state called to active duty by the Governor while
116 performing his or her active duty service.

117 (B) "Employee" shall not be construed to include:

118 (i) Any person to whom articles or material are given to be treated
119 in any way on premises not under the control or management of the
120 person who gave them out;

121 (ii) One whose employment is of a casual nature and who is
122 employed otherwise than for the purposes of the employer's trade or
123 business;

124 (iii) A member of the employer's family dwelling in his house; but,
125 if, in any contract of insurance, the wages or salary of a member of the
126 employer's family dwelling in his house is included in the payroll on
127 which the premium is based, then that person shall, if he sustains an
128 injury arising out of and in the course of his employment, be deemed
129 an employee and compensated in accordance with the provisions of
130 this chapter;

131 (iv) Any person engaged in any type of service in or about a private
132 dwelling provided he is not regularly employed by the owner or
133 occupier over twenty-six hours per week;

134 (v) An employee of a corporation who is a corporate officer and
135 who elects to be excluded from coverage under this chapter by notice
136 in writing to his employer and to the commissioner; or

137 (vi) Any person who is not a resident of this state but is injured in
138 this state during the course of his employment, unless such person (I)
139 works for an employer who has a place of employment or a business
140 facility located in this state at which such person spends at least fifty
141 per cent of his employment time, or (II) works for an employer
142 pursuant to an employment contract to be performed primarily in this
143 state.

144 (10) "Employer" means any person, corporation, limited liability
145 company, firm, partnership, voluntary association, joint stock
146 association, the state and any public corporation within the state using
147 the services of one or more employees for pay, or the legal
148 representative of any such employer, but all contracts of employment
149 between an employer employing persons excluded from the definition
150 of employee and any such employee shall be conclusively presumed to
151 include the following mutual agreements between employer and
152 employee: (A) That the employer may accept and become bound by
153 the provisions of this chapter by immediately complying with section
154 31-284; (B) that, if the employer accepts the provisions of this chapter,
155 the employee shall then be deemed to accept and be bound by such
156 provisions unless the employer neglects or refuses to furnish
157 immediately to the employee, on his written request, evidence of
158 compliance with section 31-284 in the form of a certificate from the
159 commissioner, the Insurance Commissioner or the insurer, as the case
160 may be; (C) that the employee may, at any time, withdraw his
161 acceptance of, and become released from, the provisions of this chapter
162 by giving written or printed notice of his withdrawal to the
163 commissioner and to the employer, and the withdrawal shall take
164 effect immediately from the time of its service on the commissioner
165 and the employer; and (D) that the employer may withdraw his
166 acceptance and the acceptance of the employee by filing a written or
167 printed notice of his withdrawal with the commissioner and with the

168 employee, and the withdrawal shall take effect immediately from the
169 time of its service on the commissioner and the employee. The notices
170 of acceptance and withdrawal to be given by an employer employing
171 persons excluded from the definition of employee and the notice of
172 withdrawal to be given by the employee, as provided in this
173 subdivision, shall be served upon the commissioner, employer or
174 employee, either by personal presentation or by registered or certified
175 mail. In determining the number of employees employed by an
176 individual, the employees of a partnership of which he is a member
177 shall not be included. A person who is the sole proprietor of a business
178 may accept the provisions of this chapter by notifying the
179 commissioner, in writing, of his intent to do so. If such person accepts
180 the provisions of this chapter he shall be considered to be an employer
181 and shall insure his full liability in accordance with subdivision (2) of
182 subsection (b) of section 31-284. Such person may withdraw his
183 acceptance by giving notice of his withdrawal, in writing, to the
184 commissioner. Any person who is a partner in a business shall be
185 deemed to have accepted the provisions of this chapter and shall
186 insure his full liability in accordance with subdivision (2) of subsection
187 (b) of section 31-284, unless the partnership elects to be excluded from
188 the provisions of this chapter by notice, in writing and by signed
189 agreement of each partner, to the commissioner.

190 (11) "Full-time student" means any student enrolled for at least
191 seventy-five per cent of a full-time student load at a postsecondary
192 educational institution which has been approved by a state-recognized
193 or federally-recognized accrediting agency or body. "Full-time student
194 load" means the number of credit hours, quarter credits or academic
195 units required for a degree from such institution, divided by the
196 number of academic terms needed to complete the degree.

197 (12) "Medical and surgical aid or hospital and nursing service",
198 when requested by an injured employee and approved by the
199 commissioner, includes treatment by prayer or spiritual means
200 through the application or use of the principles, tenets or teachings of
201 any established church without the use of any drug or material

202 remedy, provided sanitary and quarantine regulations are complied
203 with, and provided all those ministering to the injured employee are
204 bona fide members of such church.

205 (13) "Member" includes all parts of the human body referred to in
206 subsection (b) of section 31-308.

207 (14) "Nursing" means the practice of nursing as defined in
208 subsection (a) of section 20-87a, and "nurse" means a person engaged
209 in such practice.

210 (15) "Occupational disease" includes any disease peculiar to the
211 occupation in which the employee was engaged and due to causes in
212 excess of the ordinary hazards of employment as such, and includes
213 any disease due to or attributable to exposure to or contact with any
214 radioactive material by an employee in the course of his employment.

215 (16) (A) "Personal injury" or "injury" includes, in addition to
216 accidental injury that may be definitely located as to the time when
217 and the place where the accident occurred, an injury to an employee
218 that is causally connected with the employee's employment and is the
219 direct result of repetitive trauma or repetitive acts incident to such
220 employment, and occupational disease.

221 (B) "Personal injury" or "injury" shall not be construed to include:

222 (i) An injury to an employee that results from the employee's
223 voluntary participation in any activity the major purpose of which is
224 social or recreational, including, but not limited to, athletic events,
225 parties and picnics, whether or not the employer pays some or all of
226 the cost of such activity;

227 (ii) A mental or emotional impairment, unless such impairment
228 arises (I) from a physical injury or occupational disease, or (II) in the
229 case of a police officer, from such police officer's use of deadly force or
230 subjection to deadly force in the line of duty, regardless of whether
231 such police officer is physically injured, provided such police officer is
232 the subject of an attempt by another person to cause such police officer

233 serious physical injury or death through the use of deadly force, and
234 such police officer reasonably believes such police officer to be the
235 subject of such an attempt. As used in this clause, ["police officer"
236 means a member of the Division of State Police within the Department
237 of Public Safety, an organized local police department or a municipal
238 constabulary, and] "in the line of duty" means any action that a police
239 officer is obligated or authorized by law, rule, regulation or written
240 condition of employment service to perform, or for which the police
241 officer is compensated by the public entity such officer serves;

242 (iii) A mental or emotional impairment that results from a personnel
243 action, including, but not limited to, a transfer, promotion, demotion
244 or termination; or

245 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
246 subdivision, "personal injury" or "injury" includes injuries to
247 employees of local or regional boards of education resulting from
248 participation in a school-sponsored activity but does not include any
249 injury incurred while going to or from such activity. As used in this
250 clause, "school-sponsored activity" means any activity sponsored,
251 recognized or authorized by a board of education and includes
252 activities conducted on or off school property and "participation"
253 means acting as a chaperone, advisor, supervisor or instructor at the
254 request of an administrator with supervisory authority over the
255 employee.

256 (17) "Physician" includes any person licensed and authorized to
257 practice a healing art, as defined in section 20-1, and licensed under the
258 provisions of chapters 370, 372 and 373 to practice in this state.

259 (18) "Podiatrist" means any practitioner of podiatry, as defined in
260 section 20-50, and duly licensed under the provisions of chapter 375 to
261 practice in this state.

262 (19) "Police officer" has the same meaning as provided in section 7-
263 294a.

264 [(19)] (20) "Presumptive dependents" means the following persons
265 who are conclusively presumed to be wholly dependent for support
266 upon a deceased employee: (A) A wife upon a husband with whom
267 she lives at the time of his injury or from whom she receives support
268 regularly; (B) a husband upon a wife with whom he lives at the time of
269 her injury or from whom he receives support regularly; (C) any child
270 under the age of eighteen, or over the age of eighteen but physically or
271 mentally incapacitated from earning, upon the parent with whom he is
272 living or from whom he is receiving support regularly, at the time of
273 the injury of the parent; (D) any unmarried child who has attained the
274 age of eighteen but has not attained the age of twenty-two and who is
275 a full-time student, upon the parent with whom he is living or from
276 whom he is receiving support regularly, provided, any child who has
277 attained the age of twenty-two while a full-time student but has not
278 completed the requirements for, or received, a degree from a
279 postsecondary educational institution shall be deemed not to have
280 attained the age of twenty-two until the first day of the first month
281 following the end of the quarter or semester in which he is enrolled at
282 the time, or if he is not enrolled in a quarter or semester system, until
283 the first day of the first month following the completion of the course
284 in which he is enrolled or until the first day of the third month
285 beginning after such time, whichever occurs first.

286 [(20)] (21) "Previous disability" means an employee's preexisting
287 condition caused by the total or partial loss of, or loss of use of, one
288 hand, one arm, one foot or one eye resulting from accidental injury,
289 disease or congenital causes, or other permanent physical impairment.

290 [(21)] (22) "Scar" means the mark left on the skin after the healing of
291 a wound or sore, or any mark, damage or lasting effect resulting from
292 past injury.

293 [(22)] (23) "Second disability" means a disability arising out of a
294 second injury.

295 [(23)] (24) "Second injury" means an injury, incurred by accident,
296 repetitive trauma, repetitive acts or disease arising out of and in the

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Dept. of Administrative Services - Workers' Comp. Claims	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill extends portal-to-portal workers' compensation coverage to Department of Environmental Protection (DEP) conservation officers and DEP employees appointed as special conservation officers. These employees would receive round-trip coverage from their home to work and back home.¹

This provision may result in increased workers' compensation costs to the state. The extent of these costs depends on how many sworn conservation officers are injured traveling to and from work. There are approximately 55 sworn conservation officers that would be eligible for portal-to-portal workers' compensation benefits.

The bill also extends to all police officers² workers' compensation coverage for mental or emotional impairment resulting from using, or being subject to, deadly force in the line of duty. State and local police are currently eligible for this workers' compensation benefit.

This provision may result in increased workers' compensation costs to the state. The extent of these costs depends on the number of new

¹ This coverage already exists for police officers and firefighters.

² Under the Police Officer and Standards and Training Council definition; this includes DEP conservation officers.

claims generated from this expanded benefit. Expanding this benefit to all police officers will increase exposure by approximately 340 individuals.

The Out Years

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

OLR Bill Analysis**HB 5116*****AN ACT PROVIDING PORTAL TO PORTAL WORKERS' COMPENSATION COVERAGE FOR POLICE OFFICERS AND CONSERVATION OFFICERS EMPLOYED BY THE STATE OF CONNECTICUT.*****SUMMARY:**

This bill extends portal-to-portal workers' compensation coverage to Department of Environmental Protection (DEP) conservation officers and DEP employees appointed as special conservation officers. This means these employees would receive round-trip coverage from their place of abode (i.e., home) to work and back home (in addition to coverage while at work). This coverage already exists for police officer and firefighters.

With one exception, a workers' compensation claim cannot be based on an employee's mental or emotional impairment due to job-related stress unless the mental impairment is a result of a physical injury that occurred on the job. The exception is for state or local police officers who used deadly force in the line of duty or were the subjects of the attempted use of deadly force.

The bill also extends this deadly force exception to any police officer under the Police Officer Standards and Training Council definition. This includes DEP conservation officers and state university police officers.

EFFECTIVE DATE: October 1, 2008

BACKGROUND***Place of Abode (Conn. Agencies Reg., § 31-275-1(2))***

State regulation includes, but does not limit, an employee's "place

of abode” to:

1. house, condominium, or apartment,
2. inside of residential structures,
3. garages,
4. common hallways,
5. stairways,
6. driveways or walkways, and
7. yards.

Conservation Officers

DEP conservation officers are specifically empowered to enforce all parks, forest, wildlife, and natural resources law, and they have the authority of a police officer, including the power to make arrests (CGS § 26-6).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference
Yea 8 Nay 0 (03/06/2008)

Environment Committee

Joint Favorable
Yea 30 Nay 0 (03/14/2008)