



# House of Representatives

General Assembly

**File No. 302**

February Session, 2008

Substitute House Bill No. 5629

*House of Representatives, March 31, 2008*

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 substitute bill ought to pass.

***AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR FIREFIGHTERS AND POLICE OFFICERS.***

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

1 Section 1. (NEW) (*Effective October 1, 2008*) (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) "Constable" means any municipal law enforcement officer who is  
13 authorized to make arrests and has completed Police Officer Standards

14 and Training Council certification pursuant to section 7-294a of the  
15 general statutes.

16 (3) "Police officer or firefighter" means a local or state police officer  
17 or constable, a state or local firefighter or an active member of a  
18 volunteer fire company or fire department engaged in volunteer duties  
19 who, in the course of employment, runs a high risk of occupational  
20 exposure to hepatitis, meningococcal meningitis or tuberculosis.

21 (4) "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 (5) "High risk of occupational exposure" means the risk incurred as  
25 a result of the basic duties of employment, where the employee:

26 (A) Provides emergency medical treatment in a nonhealth-care  
27 setting where there is a potential for transfer of body fluids between  
28 persons;

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

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

36 (6) "Occupational exposure", in the case of hepatitis, meningococcal  
37 meningitis or tuberculosis, means an exposure that occurs during the  
38 performance of job duties that may place a worker at risk of infection.

39 (b) Any police officer or firefighter who suffers a condition or  
40 impairment of health that is caused by hepatitis, meningococcal  
41 meningitis or tuberculosis that requires medical treatment and that  
42 results in total or partial incapacity or death, shall be presumed to have  
43 sustained such condition or impairment of health in the course of

44 employment and shall be entitled to receive workers' compensation  
45 benefits pursuant to chapter 568 of the general statutes, unless the  
46 contrary is shown by competent evidence, provided:

47 (1) The police officer or firefighter completed a physical  
48 examination, including a tuberculosis skin test, on entry into police or  
49 fire service that failed to reveal any evidence of such condition or  
50 impairment of health; and

51 (2) The police officer or firefighter presents a written affidavit  
52 verifying by written declaration that, to the best of his or her  
53 knowledge and belief:

54 (A) In the case of meningococcal meningitis, in the ten days  
55 immediately preceding diagnosis, the police officer or firefighter was  
56 not exposed, outside the scope of employment, to any person known  
57 to have meningococcal meningitis or known to be an asymptomatic  
58 carrier of the disease.

59 (B) In the case of tuberculosis, in the period of time since the police  
60 officer's or firefighter's last negative tuberculosis skin test, he or she  
61 has not been exposed, outside the scope of employment, to any person  
62 known by the police officer or firefighter to have tuberculosis.

63 (c) Each employer shall maintain a record of any known or  
64 reasonably suspected exposure of any police officer or firefighter in its  
65 employ to the diseases described in this section and shall immediately  
66 notify the employee of such exposure. A police officer or firefighter  
67 shall file an incident or accident report with his or her employer of  
68 each instance of known or suspected occupational exposure to  
69 hepatitis, meningococcal meningitis or tuberculosis.

70 Sec. 2. Section 7-433c of the general statutes is repealed and the  
71 following is substituted in lieu thereof (*Effective October 1, 2008*):

72 (a) Notwithstanding any provision of chapter 568 or any other  
73 general statute, charter, special act or ordinance, [to the contrary,] in  
74 the event a uniformed member of a paid municipal fire department or

75 a regular member of a paid municipal police department who (1)  
76 began such employment prior to July 1, 1996, and (2) successfully  
77 passed a physical examination on entry into such service, which  
78 examination failed to reveal any evidence of hypertension or heart  
79 disease, suffers either off duty or on duty any condition or impairment  
80 of health caused by hypertension or heart disease resulting in [his  
81 death or his] such member's death or temporary or permanent, total or  
82 partial disability, [he or his] such member or such member's  
83 dependents, as the case may be, shall receive from [his] such member's  
84 municipal employer compensation and medical care in the same  
85 amount and the same manner as that provided under chapter 568 if  
86 such death or disability was caused by a personal injury which arose  
87 out of and in the course of [his] such member's employment and was  
88 suffered in the line of duty and within the scope of [his] such member's  
89 employment, and from the municipal or state retirement system under  
90 which [he] such member is covered, [he or his] such member or such  
91 member's dependents, as the case may be, shall receive the same  
92 retirement or survivor benefits which would be paid under said  
93 system if such death or disability was caused by a personal injury  
94 which arose out of and in the course of [his] such member's  
95 employment, and was suffered in the line of duty and within the scope  
96 of [his] such member's employment. If successful passage of such a  
97 physical examination was, at the time of [his] employment, required as  
98 a condition for such employment, no proof or record of such  
99 examination shall be required as evidence in the maintenance of a  
100 claim under this section or under such municipal or state retirement  
101 systems. The benefits provided by this section shall be in lieu of any  
102 other benefits which such [policeman or fireman or his] member or  
103 such member's dependents may be entitled to receive from [his] such  
104 member's municipal employer under the provisions of chapter 568 or  
105 the municipal or state retirement system under which [he] such  
106 member is covered, except as provided by this section, as a result of  
107 any condition or impairment of health caused by hypertension or heart  
108 disease resulting in [his death or his] such member's death or  
109 temporary or permanent, total or partial disability. As used in this

110 section, the term "municipal employer" shall have the same meaning  
111 and shall be defined as said term is defined in section 7-467.

112 [(b) Notwithstanding the provisions of subsection (a) of this section,  
113 those persons who began employment on or after July 1, 1996, shall not  
114 be eligible for any benefits pursuant to this section.]

115 (b) For the purpose of adjudication of claims for the payment of  
116 benefits under the provisions of chapter 568 to a uniformed member of  
117 a paid municipal fire department or a regular member of a paid  
118 municipal police department who began such employment on or after  
119 July 1, 1996, any condition of impairment of health caused by a cardiac  
120 emergency occurring to such member while such member is in  
121 training for or engaged in fire duty at the site of an accident or fire or  
122 other public safety operation for such member's municipal employer  
123 that results in death or temporary or permanent total or partial  
124 disability shall be presumed to have been suffered in the line of duty  
125 and within the scope of such member's employment, unless the  
126 contrary is shown by competent evidence, provided such member  
127 completed a physical examination on entry into such employment that  
128 failed to reveal any evidence of a cardiac emergency. For purposes of  
129 this subsection "cardiac emergency" means cardiac arrest, myocardial  
130 infarction, myocardial ischemia or an arrhythmia leading to heart  
131 block.

|   |                 |             |
|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                 |             |
| Section 1   | October 1, 2008 | New section |
| Sec. 2  | October 1, 2008 | 7-433c      |

**Statement of Legislative Commissioners:**

Definition of "cardiac emergency" moved to section 2 because it is not used in section 1.

**LAB**      *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 chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

| <b>Agency Affected</b>                                      | <b>Fund-Effect</b> | <b>FY 09 \$</b> | <b>FY 10 \$</b> |
|---|--------------------|-----------------|-----------------|
| Dept. of Administrative Services -<br>Workers' Comp. Claims | GF - Cost          | Significant     | Significant     |

Note: GF=General Fund

#### **Municipal Impact:**

| <b>Municipalities</b> | <b>Effect</b>              | <b>FY 09 \$</b> | <b>FY 10 \$</b> |
|-----------------------|----------------------------|-----------------|-----------------|
| All Municipalities    | STATE<br>MANDATE<br>- Cost | Significant     | Significant     |

### **Explanation**

The bill establishes two rebuttable presumptions under workers' compensation law for specific ailments contracted or acquired by certain firefighters and police officers while performing their duties:

1. municipal police officers, state police and firefighters who contract hepatitis, meningitis, or tuberculosis;
2. municipal police and firefighters, hired after July 1, 1996, who are on duty and suffer a cardiac emergency.

#### **Hepatitis, Meningitis, or Tuberculosis**

This bill establishes a rebuttable presumption that police officers or firefighters who contract hepatitis, meningitis, or tuberculosis got the condition from the workplace and are entitled to workers' compensation benefits.

It is not known how many police officers or firefighters contract these diseases. From January 1, 1998 - December 31, 2007 (10 years) there were 178 communicable disease claims filed with the Workers'

Compensation Commission (WCC) from the population of all public and private employees in the state.<sup>1</sup> This provision of the bill applies to approximately 35,600 police officers and firefighters.

The fiscal impact to the state and municipalities could be significant for hepatitis, meningitis, tuberculosis claims due to the cost of medical treatment along with the corresponding indemnity benefits. A single hepatitis claim can have a total incurred value exceeding \$500,000. Certain strands of tuberculosis can have medical costs up to \$250,000; in addition there would be indemnity benefit costs.

### **Cardiac Emergency**

The bill creates a presumption that a cardiac emergency that occurs while a paid municipal firefighter or police officer is in training for, or engaged in, fire duty at the site of an accident or fire or other public safety operation for his or her municipal employer will be presumed to be suffered in the line of duty and is compensable under the Workers' Compensation Act. It applies to those hired after July 1, 1996, and only in cases where the cardiac emergency results in lost work time due to temporary or permanent total or partial disability or death.

There are approximately 4,135 paid municipal firefighters in the state and 7,976 certified municipal police officers. This provision of the bill would impact at least 2,500 firefighters and police officers hired after July 1, 1996, along with all future hires.

It is anticipated that this provision will increase the number of claims filed under CGS 7-433c.<sup>2</sup> To the extent that filing a claim under

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<sup>1</sup> The WCC database was designed for tracking the commission's legal process. It does not record the "nature of the injury" until the claimant brings their case before a Commissioner at which time the "nature of the injury" is introduced at a hearing.

<sup>2</sup> As a result of a hearing there were 308 police and fire heart and hypertension claims identified as injuries under from CGS 7-433b and 7-433c from July 1, 1996 - June 30, 2007 (11 years).

7-433c increases the likelihood of an award—because the burden of proof has shifted to the employer to refute the claim—there will be increased costs to municipalities. These costs may be significant as a single cardiac claim may have a total incurred value of \$500,000 - \$1 million.

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

Hepatitis, meningitis, tuberculosis and cardiac emergency claims tend to need medical treatment for extended durations of time thus presenting a significant long-term cost to workers' compensation programs.

**OLR Bill Analysis****sHB 5629*****AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR FIREFIGHTERS AND POLICE OFFICERS.*****SUMMARY:**

This bill establishes two rebuttable presumptions under workers' compensation law for specific ailments that certain public safety employees contract or acquire through their work. The type of employee and the presumptive ailment for each are:

1. municipal and state police and firefighters and active members of volunteer fire departments who contract hepatitis, meningitis, or tuberculosis (TB); and
2. municipal police and firefighters hired after July 1, 1996 who are on duty and suffer a cardiac emergency.

To fall under the bill, the ailments must result in lost work time due to total or partial incapacity or death. The presumption that an ailment is due to the occupation is rebuttable, meaning it is presumed to be job-related unless competent evidence shows it is not. Under current law, these ailments are compensable, but the burden of proof is on the employee to demonstrate the ailment is job-related.

EFFECTIVE DATE: October 1, 2008

**HEPATITIS, MENINGITIS, OR TUBERCULOSIS*****Presumption***

The bill provides that a police officer, firefighter, or volunteer firefighter who suffers from one of these diseases and either dies or is totally or partially incapacitated must be presumed to have sustained

the ailment from the job unless (1) competent evidence shows the contrary or (2) the employee fails to meet the medical tests and administrative requirements described below.

### ***Medical Tests and Administrative Requirements***

To be included under the presumption, the employee or volunteer must have completed a physical exam, including a TB skin test, upon entry into the service, that failed to reveal evidence of any of these diseases. Furthermore, an employee must present a written affidavit in cases of (1) meningitis, that in the 10 days prior to diagnosis he or she was not exposed outside of work to anyone known to have or carry the disease and (2) TB, that the employee was not exposed outside of work to anyone known by him or her to have the disease since the last negative TB skin test.

### ***Required Records***

Employees must file a report with their employer about each known or suspected occupational exposure to hepatitis, meningococcal meningitis, or TB. Employers must maintain a record of known or reasonably suspected cases of exposure and must notify employees of such exposures immediately.

### ***Occupational Risk of Exposure***

The bill applies to municipal and state police and firefighters and volunteer firefighters who, in the course of their employment, run a high risk of occupational exposure to hepatitis, meningitis, or TB.

“High risk of occupational exposure” means a risk incurred because a person, in performing his or her 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; or

3. may be exposed to body fluids while engaged in the pursuit, apprehension, or arrest of law or suspected law violators.

“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.

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

### **CARDIAC EMERGENCY**

The bill creates a presumption that a cardiac emergency that occurs while a paid municipal firefighter or police officer is in training for, or engaged in, fire duty at the site of an accident or fire or other public safety operation for his or her municipal employer was suffered in the line of duty and is compensable under workers’ compensation. It applies to (1) those hired after July 1, 1996 and (2) only in cases where the cardiac emergency results in lost work time due to temporary or permanent total or partial disability or death.

The bill defines cardiac emergency as (1) cardiac arrest, (2) myocardial infarction, (3) myocardial ischemia, or (4) an arrhythmia leading to heart block.

The employee must have previously passed a physical that revealed no evidence of cardiac emergency. Under current law, any firefighter or police officer hired after July 1, 1996 must prove a cardiac emergency (or any other type of heart disease) was caused by his work and not due to other causes. (By law, municipal police officers and firefighters hired before to July 1, 1996 and out of work due to heart or hypertension-related illness are given benefits equivalent to workers' compensation benefits without having to demonstrate that the ailment is job-related.)

Under the bill, the presumption can be overcome if competent evidence shows that the cardiac emergency was not contracted through firefighting or police work.

**BACKGROUND**

***Volunteer Firefighters and Workers' Compensation***

By law, volunteer firefighters and emergency rescue workers are treated as employees, for workers compensation purposes, of the town where they volunteer. It also provides them with a presumption under workers' compensation that any hypertension or heart disease resulting in death or temporary or permanent total or partial disability is presumed to be suffered in the line of duty if the member is in training or engaged in volunteer fire duty or ambulance service (CGS § 7-314a (a) & (d)).

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 0 (03/11/2008)