



General Assembly

February Session, 2008

**Raised Bill No. 5116**

LCO No. 245

\* \_\_\_\_\_ HB05116LABENV030708 \_\_\_\_\_ \*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

**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 Section 31-275 of the general statutes is repealed and the  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 subsection 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  
297 course of employment, to an employee with a previous disability.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	31-275

**LAB**      *Joint Favorable C/R*      ENV