



House of Representatives

General Assembly

File No. 101

January Session, 2009

Substitute House Bill No. 6194

House of Representatives, March 19, 2009

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

AN ACT CONCERNING ADDITIONAL WORKERS' COMPENSATION PRESUMPTIONS FOR FIREFIGHTERS, POLICE OFFICERS AND EMERGENCY RESCUE WORKERS.

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

1 Section 1. Section 31-294i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) As used in this section:

4 (1) "Body fluids" means blood and body fluids containing visible
5 blood and other body fluids to which universal precautions for
6 prevention of occupational transmission of blood-borne pathogens, as
7 established by the National Centers for Disease Control, apply. For
8 purposes of potential transmission of meningococcal meningitis or
9 tuberculosis, the term "body fluids" includes respiratory, salivary and
10 sinus fluids, including droplets, sputum and saliva, mucous, and other
11 fluids through which infectious airborne organisms can be transmitted

12 between persons.

13 (2) "Constable" means any municipal law enforcement officer who is
14 authorized to make arrests and has completed Police Officer Standards
15 and Training Council certification pursuant to section 7-294a.

16 (3) "Emergency rescue worker" means a local emergency medical
17 technician, medical response technician, paramedic, ambulance driver,
18 or active member of an organization certified as a volunteer ambulance
19 service in accordance with section 19a-180 who, in the course of
20 employment, runs a high risk of occupational exposure to hepatitis,
21 meningococcal meningitis or tuberculosis.

22 (4) "Police officer or firefighter" means a local or state police officer
23 or constable, a state or local firefighter, or an active member of a
24 volunteer fire company or fire department engaged in volunteer duties
25 who, in the course of employment, runs a high risk of occupational
26 exposure to hepatitis, meningococcal meningitis or tuberculosis.

27 (5) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A,
28 hepatitis non-B, hepatitis C or any other strain of hepatitis generally
29 recognized by the medical community.

30 (6) "High risk of occupational exposure" means the risk incurred as
31 a result of the basic duties of employment, where the employee:

32 (A) Provides emergency medical treatment, other than in a health
33 care setting, where there is a potential for transfer of body fluids
34 between persons;

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

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

42 (7) "Occupational exposure", in the case of hepatitis, meningococcal
43 meningitis or tuberculosis, means an exposure that occurs during the
44 performance of job duties that may place a worker at risk of infection.

45 (b) Each employer shall maintain a record of any known or
46 reasonably suspected exposure of any police officer, firefighter or
47 emergency rescue worker in its employ to hepatitis, meningococcal
48 meningitis or tuberculosis and shall immediately notify the employee
49 of such exposure. A police officer, firefighter or emergency rescue
50 worker shall file an incident or accident report with his or her
51 employer of each instance of known or suspected occupational
52 exposure to hepatitis, meningococcal meningitis or tuberculosis. Any
53 police officer, firefighter or emergency rescue worker who suffers a
54 condition or impairment of health that is caused by hepatitis,
55 meningococcal meningitis or tuberculosis that requires medical
56 treatment and that results in total or partial incapacity or death, shall
57 be presumed to have sustained such condition or impairment of health
58 in the course of employment and shall be entitled to receive workers'
59 compensation benefits pursuant to chapter 568, unless the contrary is
60 shown by competent evidence, provided:

61 (1) The police officer, firefighter or emergency rescue worker
62 completed a physical examination, including a tuberculosis skin test,
63 on entry into police, fire or emergency rescue service that failed to
64 reveal any evidence of such condition or impairment of health; and

65 (2) The police officer, firefighter or emergency rescue worker
66 presents a written affidavit verifying by written declaration that, to the
67 best of his or her knowledge and belief:

68 (A) In the case of meningococcal meningitis, in the ten days
69 immediately preceding diagnosis, the police officer, firefighter or
70 emergency rescue worker was not exposed, outside the scope of
71 employment, to any person known to have meningococcal meningitis
72 or known to be an asymptomatic carrier of the disease.

73 (B) In the case of tuberculosis, in the period of time since the police

74 officer's, firefighter's or emergency rescue worker's last negative
75 tuberculosis skin test, he or she has not been exposed, outside the
76 scope of employment, to any person known by the police officer,
77 firefighter or emergency rescue worker to have tuberculosis.

78 (c) For the purpose of adjudication of claims for payment of benefits
79 under the provisions of this chapter to a uniformed member of a paid
80 municipal fire department or a regular member of a paid municipal
81 police department or constable who began such employment on or
82 after July 1, 1996, any condition or impairment of health caused by a
83 cardiac emergency occurring to such member on or after July 1, 2009,
84 while such member is in training for or engaged in fire duty at the site
85 of an accident or fire, or other public safety operation within the scope
86 of such member's employment for such member's municipal employer
87 that results in death or temporary or permanent total or partial
88 disability, shall be presumed to have been suffered in the line of duty
89 and within the scope of such member's employment, unless the
90 contrary is shown by a preponderance of the evidence, provided such
91 member successfully passed a physical examination on entry into
92 service conducted by a licensed physician designated by such
93 department which examination failed to reveal any evidence of such
94 condition. For the purposes of this [section] subsection, "cardiac
95 emergency" means cardiac arrest or myocardial infarction. [, and
96 "constable" means any municipal law enforcement officer who is
97 authorized to make arrests and has completed Police Officer Standards
98 and Training Council certification pursuant to section 7-294a.]

99 (d) Notwithstanding any provision of the general statutes, any state,
100 municipal or local firefighter, or active member of a volunteer fire
101 company or fire department engaged in volunteer duties who is
102 diagnosed with multiple myeloma, non-Hodgkin's lymphoma,
103 prostate or testicular cancer resulting in total or partial disability or
104 death shall be presumed to have sustained such cancer in the course of
105 employment and shall be entitled to receive workers' compensation
106 benefits pursuant to chapter 568, unless the contrary is shown by a
107 preponderance of the evidence, provided the firefighter:

108 (1) Completed a physical examination on entry into such
109 employment that failed to reveal any evidence of such cancer;

110 (2) Was employed as a firefighter for five or more years at the time
111 the cancer is discovered;

112 (3) Established that he or she regularly responded to the scene of
113 fires or fire investigations during some portion of his or her
114 employment as a firefighter; and

115 (4) Provides documentation that, while responding to the scene of
116 fires or fire investigations, the firefighter was exposed to a substance or
117 substances scientifically determined to be causally related to the type
118 of cancer for which he or she is claiming compensation under this
119 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	31-294i

Statement of Legislative Commissioners:

In section 1(b), "police officer or firefighter" was changed to "police officer, firefighter or emergency rescue worker" for consistency.

LAB *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Dept. of Administrative Services - Workers' Compensation Claims	GF - Cost	Significant	Significant

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
All Municipalities	STATE MANDATE - Cost	Significant	Significant

Explanation

The bill establishes two rebuttable presumptions under workers' compensation law for specific ailments contracted or acquired by certain public safety employees while performing their duties:

1. municipal police officers, state police, constables, firefighters and emergency rescue workers who contract hepatitis, meningitis, or tuberculosis;
2. firefighters who suffer from certain types of cancer.

Hepatitis, Meningitis, or Tuberculosis

This bill establishes a rebuttable presumption that police officers, firefighters, constables and emergency rescue workers 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, firefighters, constables or emergency rescue workers contract these diseases. From January 1,

2005 – December 31, 2008 there were 39 communicable disease claims filed with the Workers' Compensation Commission (WCC) from the population of all public and private employees in the state.¹ This provision of the bill applies to at least 45,000 police officers, firefighters, constables and emergency rescue workers.

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 may have a total incurred value exceeding \$500,000. Certain strands of tuberculosis may have medical costs up to \$250,000; in addition there would be indemnity benefit costs.

Cancer

This bill also creates a presumption that a state, municipal, or volunteer firefighter stricken with certain types of cancer contracted the disease due to exposure on the job. Costs associated with providing medical care, lost wages and other indemnity benefits would be significantly higher than other categories of claims within the workers' compensation system. A single cancer claim may exceed \$1 million over the life of the claim.

Source: Agency data.

¹ 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.

OLR Bill Analysis**sHB 6194*****AN ACT CONCERNING ADDITIONAL WORKERS' COMPENSATION PRESUMPTIONS FOR FIREFIGHTERS, POLICE OFFICERS AND EMERGENCY RESCUE WORKERS.*****SUMMARY:**

This bill establishes the two rebuttable presumptions under workers' compensation law for specific ailments contracted or acquired by certain public safety employees through their work. Presumptions shift the burden of proof for a workers' compensation claim from the employee to the employer. The type of employee and the presumptive ailment for each are:

1. municipal and state police and firefighters, constables, volunteer firefighters, and emergency rescue workers who contract hepatitis, meningococcal meningitis, or tuberculosis (TB);
2. municipal and state firefighters and volunteer firefighters who suffer from the following types of cancer: (a) multiple myeloma, (b) non-Hodgkin's lymphoma, (c) prostate, or (d) testicular.

To fall under the bill's authority, the ailments must result in lost work time due to total or partial incapacity or death. The presumption that any of these ailments is due to the occupation is rebuttable, meaning it is presumed to be job-related unless the employer provides sufficient evidence that it is not.

Under current law, these ailments are compensable, but the burden of proof is on the employee to demonstrate the illness is job-related.

EFFECTIVE DATE: October 1, 2009

HEPATITIS, MENINGOCOCCAL MENINGITIS, OR TUBERCULOSIS**Covered Workers**

For purposes of providing the infectious disease presumption, the bill includes the following definitions:

1. "police officer or firefighter" is a local or state police officer or constable, a state or local firefighter, or an active member of a volunteer fire company or fire department engaged in volunteer, duties;
2. "constable" is a municipal law enforcement officer who is authorized to make arrests and has completed the Police Officer Standards and Training Council certification as prescribed by law; and
3. "emergency rescue worker" is local emergency medical technician, medical response technician, paramedic, ambulance driver, or active member of an organization certified as a volunteer ambulance service.

Presumption

The bill provides that a firefighter, police officer, volunteer firefighter, or emergency rescue worker who suffers from one of these diseases, requires medical treatment, 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 one of the medical test or administrative requirements stated below. By law, volunteer firefighters are treated as employees, for workers compensation purposes, of the town where they volunteer.

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, which failed to reveal evidence of any of the three diseases. Furthermore, an employee must present in cases of (1) meningitis, a written affidavit that in the 10 days prior to diagnosis, he or she was not exposed outside of work to anyone having or carrying

the disease and (2) TB, a written affidavit that he or she was not exposed outside of work to anyone known to have the disease since the last negative TB skin test.

Occupational Risk of Exposure

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

“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; or
3. may be exposed to body fluids while pursuing, apprehending, or arresting of 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 fluids, including 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.

Required Records

Covered employees must file a report with their employers 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 to these diseases and must notify employees of such exposures immediately.

CANCER

The bill also creates a presumption that a state or municipal firefighter or volunteer firefighter stricken with multiple myeloma, non-Hodgkin’s lymphoma, prostate, or testicular cancer contracted the disease due to the job. The disease must also result in total or partial disability or death to trigger the presumption.

The presumption applies if the firefighter:

1. previously passed a physical upon entry into the occupation that revealed no evidence of these cancers;
2. was employed as a firefighter for at least five years;
3. established that he or she regularly responded to fire scenes or investigations during some part of his or her career; and
4. provided documentation that while responding to the scene of fires or fire investigations, he or she was exposed to a substance or substances scientifically determined to be causally related to the type of cancer stated in the compensation claim.

Under the bill, the presumption can be overcome if a preponderance of evidence shows that the illness was not contracted through firefighting.

By law, volunteer firefighters are considered employees of the town for which they volunteer for workers’ compensation purposes.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 2 (03/05/2009)