



House of Representatives

General Assembly

File No. 624

January Session, 2009

Substitute House Bill No. 6194

House of Representatives, April 15, 2009

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th 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 Section 31-294i of the general statutes is repealed and the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 who has obtained Police Officer
15 Standards and Training Council certification pursuant to section 7-
16 294a.

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

23 (4) "Police officer" means a local or state police officer or a constable
24 who, in the course of employment, runs a high risk of occupational
25 exposure to hepatitis, meningococcal meningitis or tuberculosis.

26 (5) "Firefighter" means a state or local firefighter or an active
27 member of a volunteer fire company or volunteer fire department
28 who, in the course of employment or volunteer duties, runs a high risk
29 of occupational exposure to hepatitis, meningococcal meningitis or
30 tuberculosis.

31 (6) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A,
32 hepatitis non-B, hepatitis C or any other strain of hepatitis generally
33 recognized by the medical community.

34 (7) "High risk of occupational exposure" means the risk incurred as
35 a result of the basic duties of employment, where the employee:

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

39 (B) At the site of an accident, fire or other rescue or public safety
40 operation, or in an emergency rescue or public safety vehicle, handles
41 body fluids in or out of containers or works with or otherwise handles

42 needles or other sharp instruments exposed to body fluids; or

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

46 (8) "Occupational exposure", in the case of hepatitis, meningococcal
47 meningitis or tuberculosis, means an exposure that occurs during the
48 performance of job duties that may place a worker at risk of infection.

49 (b) For the purposes of this subsection, "employer" includes, but is
50 not limited to, a volunteer fire company or volunteer fire department.
51 Each employer shall maintain a record of any known or reasonably
52 suspected exposure of any police officer, firefighter or emergency
53 rescue worker in its employ to hepatitis, meningococcal meningitis or
54 tuberculosis and shall immediately notify the employee of such
55 exposure. A police officer, firefighter or emergency rescue worker shall
56 file an incident or accident report with his or her employer of each
57 instance of known or suspected occupational exposure to hepatitis,
58 meningococcal meningitis or tuberculosis. Any police officer,
59 firefighter or emergency rescue worker who suffers a condition or
60 impairment of health that is caused by hepatitis, meningococcal
61 meningitis or tuberculosis that requires medical treatment and that
62 results in total or partial incapacity or death, shall be presumed to have
63 sustained such condition or impairment of health in the course of
64 employment and shall be entitled to receive workers' compensation
65 benefits pursuant to chapter 568, unless the contrary is shown by
66 competent evidence, provided:

67 (1) The police officer, firefighter or emergency rescue worker
68 completed a physical examination, including a tuberculosis skin test,
69 upon entry into police, fire or emergency rescue service that failed to
70 reveal any evidence of such condition or impairment of health; and

71 (2) The police officer, firefighter or emergency rescue worker
72 presents a written, sworn and signed affidavit certifying that, to the
73 best of his or her knowledge and belief:

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

79 (B) In the case of tuberculosis, in the period of time since the police
80 officer's, firefighter's or emergency rescue worker's last negative
81 tuberculosis skin test, he or she has not been exposed, outside the
82 scope of employment, to any person known by the police officer,
83 firefighter or emergency rescue worker to have tuberculosis.

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

105 (d) Notwithstanding any provision of the general statutes, any state,
106 municipal or local firefighter, or active member of a volunteer fire

107 company or fire department engaged in volunteer duties who is
 108 diagnosed with multiple myeloma, non-Hodgkin's lymphoma,
 109 prostate or testicular cancer resulting in total or partial disability or
 110 death shall be presumed to have sustained such cancer in the course of
 111 employment or such volunteer duties and shall be entitled to receive
 112 workers' compensation benefits pursuant to chapter 568, unless the
 113 contrary is shown by a preponderance of the evidence, provided the
 114 firefighter:

115 (1) Completed a physical examination upon entry into such
 116 employment that failed to reveal any evidence of such cancer;

117 (2) Was employed or engaged in volunteer duties as a firefighter for
 118 five or more years at the time the cancer is discovered;

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

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

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

PS *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 House thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 10 \$ | FY 11 \$ |
|---|--------------------|-----------------|-----------------|
| Department of Administrative Services - Workers' Comp. 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.

Sources: Department of Administrative Services

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 two rebuttable presumptions under workers' compensation law for specific ailments contracted or acquired by certain public safety employees through their work. Such 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); and
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 scope, 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 the infectious disease presumption, the bill includes the following definitions:

1. “police officer” is a local or state police officer or constable;
2. “firefighter” is a state or local firefighter, or an active member of a volunteer fire company or fire department engaged in volunteer duties;
3. “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
4. “emergency rescue worker” is a 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.

Under workers’ compensation law, volunteer firefighters are treated as employees of the town where they volunteer. The bill specifies that for purposes of the infectious diseases presumption, the term employer includes a volunteer fire company or department.

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 suspected law breakers.

“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 immediately notify employees of such exposures.

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. served as a firefighter (paid or volunteer) 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.

The bill does not indicate by what means it is determined that a substance is "scientifically determined" to be causally related to the type of cancer in the claim.

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

BACKGROUND

Legislative History

On March 24, the House referred the bill (File 101) to the Public Safety and Security Committee which reported out a favorable substitute on March 31. The new language specifies that for the purposes of the infectious disease presumption the term “employer” includes, but is not limited to, a volunteer fire company or department.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 2 (03/05/2009)

Public Safety and Security Committee

Joint Favorable Substitute

Yea 14 Nay 5 (03/31/2009)