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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4515

03/16/2020 Authored by Wolgamott, Winkler, Youakim, Cantrell, Jordan and others
The bill was read for the first time and referred to the Committee on Labor

1.1 A bill for an act
1.2 relating to employment; modifying workers' compensation and line of duty benefits
1.3 for the safety of firefighters; amending Minnesota Statutes 2018, section 176.011,
1.4 subdivision 15; proposing coding for new law in Minnesota Statutes, chapter 181.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 176.011, subdivision 15, is amended to read:

1.7 Subd. 15. Occupational disease. (a) "Occupational disease" means a mental impairment
1.8 as defined in paragraph (d) or physical disease arising out of and in the course of employment
1.9 peculiar to the occupation in which the employee is engaged and due to causes in excess of
1.10 the hazards ordinary of employment and shall include undulant fever. Physical stimulus
1.11 resulting in mental injury and mental stimulus resulting in physical injury shall remain
1.12 compensable. Mental impairment is not considered a disease if it results from a disciplinary
1.13 action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement,
1.14 or similar action taken in good faith by the employer. Ordinary diseases of life to which the
1.15 general public is equally exposed outside of employment are not compensable, except where
1.16 the diseases follow as an incident of an occupational disease, or where the exposure peculiar
1.17 to the occupation makes the disease an occupational disease hazard. A disease arises out of
1.18 the employment only if there be a direct causal connection between the conditions under
1.19 which the work is performed and if the occupational disease follows as a natural incident
1.20 of the work as a result of the exposure occasioned by the nature of the employment. An
1.21 employer is not liable for compensation for any occupational disease which cannot be traced
1.22 to the employment as a direct and proximate cause and is not recognized as a hazard
1.23 characteristic of and peculiar to the trade, occupation, process, or employment or which

2.1 results from a hazard to which the worker would have been equally exposed outside of the
2.2 employment.

2.3 (b) If immediately preceding the date of disablement or death, an employee was employed
2.4 on active duty with an organized fire or police department of any municipality, as a member
2.5 of the Minnesota State Patrol, conservation officer service, state crime bureau, as a forest
2.6 officer by the Department of Natural Resources, state correctional officer, or sheriff or
2.7 full-time deputy sheriff of any county, and the disease is that of myocarditis, coronary
2.8 sclerosis, pneumonia or its sequel, and at the time of employment such employee was given
2.9 a thorough physical examination by a licensed doctor of medicine, and a written report
2.10 thereof has been made and filed with such organized fire or police department, with the
2.11 Minnesota State Patrol, conservation officer service, state crime bureau, Department of
2.12 Natural Resources, Department of Corrections, or sheriff's department of any county, which
2.13 examination and report negated any evidence of myocarditis, coronary sclerosis, pneumonia
2.14 or its sequel, the disease is presumptively an occupational disease and shall be presumed
2.15 to have been due to the nature of employment. If immediately preceding the date of
2.16 disablement or death, any individual who by nature of their position provides emergency
2.17 medical care, or an employee who was employed as a licensed police officer under section
2.18 626.84, subdivision 1; firefighter; paramedic; state correctional officer; emergency medical
2.19 technician; or licensed nurse providing emergency medical care; and who contracts an
2.20 infectious or communicable disease to which the employee was exposed in the course of
2.21 employment outside of a hospital, then the disease is presumptively an occupational disease
2.22 and shall be presumed to have been due to the nature of employment and the presumption
2.23 may be rebutted by substantial factors brought by the employer or insurer. Any substantial
2.24 factors which shall be used to rebut this presumption and which are known to the employer
2.25 or insurer at the time of the denial of liability shall be communicated to the employee on
2.26 the denial of liability.

2.27 (c) A firefighter on active duty with an organized fire department who is unable to
2.28 perform duties in the department by reason of:

2.29 (1) a disabling cancer of a type caused by exposure to heat, radiation, or a known or
2.30 suspected carcinogen, as defined by the International Agency for Research on Cancer, and
2.31 the carcinogen is reasonably linked to the disabling cancer, is presumed to have an
2.32 occupational disease under paragraph (a). If a firefighter who enters the service after August
2.33 1, 1988, is examined by a physician prior to being hired and the examination discloses the
2.34 existence of a cancer of a type described in this paragraph, the firefighter is not entitled to

3.1 the presumption unless a subsequent medical determination is made that the firefighter no
 3.2 longer has the cancer; or

3.3 (2) having or being quarantined for a virus or other communicable disease that has been
 3.4 determined to be a "pandemic" by the World Health Organization or the United States
 3.5 Centers for Disease Control and Prevention, is presumed to have an occupational disease
 3.6 under paragraph (a). The firefighter is not entitled to the presumption if a subsequent medical
 3.7 determination establishes that the firefighter contracted or was quarantined for the disease
 3.8 resulting from exposure that was not related to the firefighter's employment.

3.9 (d) For the purposes of this chapter, "mental impairment" means a diagnosis of
 3.10 post-traumatic stress disorder by a licensed psychiatrist or psychologist. For the purposes
 3.11 of this chapter, "post-traumatic stress disorder" means the condition as described in the most
 3.12 recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by
 3.13 the American Psychiatric Association. For purposes of section 79.34, subdivision 2, one or
 3.14 more compensable mental impairment claims arising out of a single event or occurrence
 3.15 shall constitute a single loss occurrence.

3.16 (e) If, preceding the date of disablement or death, an employee who was employed on
 3.17 active duty as: a licensed police officer; a firefighter; a paramedic; an emergency medical
 3.18 technician; a licensed nurse employed to provide emergency medical services outside of a
 3.19 medical facility; a public safety dispatcher; an officer employed by the state or a political
 3.20 subdivision at a corrections, detention, or secure treatment facility; a sheriff or full-time
 3.21 deputy sheriff of any county; or a member of the Minnesota State Patrol is diagnosed with
 3.22 a mental impairment as defined in paragraph (d), and had not been diagnosed with the mental
 3.23 impairment previously, then the mental impairment is presumptively an occupational disease
 3.24 and shall be presumed to have been due to the nature of employment. This presumption
 3.25 may be rebutted by substantial factors brought by the employer or insurer. Any substantial
 3.26 factors that are used to rebut this presumption and that are known to the employer or insurer
 3.27 at the time of the denial of liability shall be communicated to the employee on the denial
 3.28 of liability. The mental impairment is not considered an occupational disease if it results
 3.29 from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion,
 3.30 termination, retirement, or similar action taken in good faith by the employer.

3.31 **EFFECTIVE DATE.** This section is effective retroactively from March 10, 2020.

3.32 **Sec. 2. [181.741] LINE OF DUTY BENEFITS FOR FIREFIGHTERS.**

3.33 **Subdivision 1. Benefits under a collective bargaining agreement, civil service rule,**
 3.34 **or employer policy. If an employee is entitled to workers' compensation benefits under**

4.1 section 176.011, subdivision 15, paragraph (c), the qualifying event for workers'
4.2 compensation coverage shall also constitute a qualifying event making the employee eligible
4.3 to receive benefits under any injury on duty benefit that exists under a collective bargaining
4.4 agreement, civil service rule, or employer policy.

4.5 Subd. 2. **Death or disability in the line of duty.** An employee who is or would be
4.6 entitled to workers' compensation benefits under section 176.011, subdivision 15, paragraph
4.7 (c), and who dies or is permanently disabled as a result of the disease shall be considered
4.8 to be killed or disabled in the line of duty and therefore eligible for such benefits as otherwise
4.9 established by law.

4.10 **EFFECTIVE DATE.** This section is effective retroactively from March 10, 2020.