

FIRST REGULAR SESSION

SENATE BILL NO. 294

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Read 1st time January 24, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1633S.01I

AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation for firefighters.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 287.067, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 287.067 and 287.068, to read as
3 follows:

287.067. 1. **(1)** In this chapter the term "occupational disease" is hereby
2 defined to mean, unless a different meaning is clearly indicated by the context,
3 an identifiable disease arising with or without human fault out of and in the
4 course of the employment. Ordinary diseases of life to which the general public
5 is exposed outside of the employment shall not be compensable, except where the
6 diseases follow as an incident of an occupational disease as defined in this
7 section. The disease need not to have been foreseen or expected but after its
8 contraction it must appear to have had its origin in a risk connected with the
9 employment and to have flowed from that source as a rational consequence.

10 **(2) For purposes of this section, "hazardous duty" shall mean any**
11 **duty performed under circumstances in which an accident could result**
12 **in serious injury or death, such as duty performed on a high structure**
13 **where protective facilities are not used or on an open structure where**
14 **adverse conditions such as darkness, lightning, steady rain, or high**
15 **wind velocity exist.**

16 2. An injury or death by occupational disease is compensable only if the
17 occupational exposure was the prevailing factor in causing both the resulting
18 medical condition and disability. The "prevailing factor" is defined to be the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 primary factor, in relation to any other factor, causing both the resulting medical
20 condition and disability. Ordinary, gradual deterioration, or progressive
21 degeneration of the body caused by aging or by the normal activities of day-to-day
22 living shall not be compensable.

23 3. An injury due to repetitive motion is recognized as an occupational
24 disease for purposes of this chapter. An occupational disease due to repetitive
25 motion is compensable only if the occupational exposure was the prevailing factor
26 in causing both the resulting medical condition and disability. The "prevailing
27 factor" is defined to be the primary factor, in relation to any other factor, causing
28 both the resulting medical condition and disability. Ordinary, gradual
29 deterioration, or progressive degeneration of the body caused by aging or by the
30 normal activities of day-to-day living shall not be compensable.

31 4. "Loss of hearing due to industrial noise" is recognized as an
32 occupational disease for purposes of this chapter and is hereby defined to be a
33 loss of hearing in one or both ears due to prolonged exposure to harmful noise in
34 employment. "Harmful noise" means sound capable of producing occupational
35 deafness.

36 5. "Radiation disability" is recognized as an occupational disease for
37 purposes of this chapter and is hereby defined to be that disability due to
38 radioactive properties or substances or to Roentgen rays (X-rays) or exposure to
39 ionizing radiation caused by any process involving the use of or direct contact
40 with radium or radioactive properties or substances or the use of or direct
41 exposure to Roentgen rays (X-rays) or ionizing radiation.

42 6. (1) Disease of the lungs or respiratory tract, hypotension,
43 hypertension, or disease of the heart or cardiovascular system, including
44 carcinoma, may be recognized as occupational diseases for the purposes of this
45 chapter and are defined to be disability due to exposure to smoke, gases,
46 carcinogens, inadequate oxygen, of paid **or volunteer** firefighters of a [paid] fire
47 department or paid police officers of a paid police department certified under
48 chapter 590 if a direct causal relationship is established, or psychological stress
49 of firefighters of a [paid] fire department or paid peace officers of a police
50 department who are certified under chapter 590 if a direct causal relationship is
51 established.

52 (2) (a) **Cancer contracted by a firefighter shall be presumed as**
53 **an occupational disease if:**

54 a. **The firefighter is a paid or volunteer firefighter who has been**

55 assigned to at least five years of hazardous duty as a firefighter;

56 b. The firefighter was exposed to an agent classified by the
57 International Agency for Research on Cancer, or its successor
58 organization as a group 1 or 2A carcinogen, or classified as a cancer
59 causing agent by the American Cancer Society, the American
60 Association for Cancer Research, the Agency for Health Care Policy and
61 Research, the American Society for Clinical Oncology, the National
62 Institute for Occupational Safety and Health, or the United States
63 National Cancer Institute;

64 c. Twenty years have not elapsed since the firefighter was last
65 assigned to hazardous duty as a firefighter; and

66 d. The firefighter is not seventy years of age or older at the time
67 of the diagnosis of cancer.

68 (b) The presumption described in paragraph (a) of this
69 subdivision shall be rebuttable if:

70 a. There is evidence that the firefighter's exposure to personal
71 use of cigarettes, tobacco products, or other conditions presenting an
72 extremely high risk for the development of the cancer alleged was more
73 than likely the prevailing factor in the cause of progression of the
74 cancer, and such exposure occurred outside the scope of employment
75 as a firefighter; or

76 b. There is evidence that the firefighter incurred the type of
77 cancer alleged before becoming a firefighter.

78 (c) Compensation for cancer contracted by a firefighter in the
79 course of hazardous duty under paragraph (a) of this subdivision shall
80 be payable as otherwise provided in this chapter.

81 (d) This subdivision shall apply to paid and volunteer
82 firefighters of all fire departments of all counties, cities, towns, fire
83 districts, and other political subdivisions.

84 (e) This subdivision shall only apply to claims filed on or after
85 August 28, 2019.

86 7. Any employee who is exposed to and contracts any contagious or
87 communicable disease arising out of and in the course of his or her employment
88 shall be eligible for benefits under this chapter as an occupational disease.

89 8. With regard to occupational disease due to repetitive motion, if the
90 exposure to the repetitive motion which is found to be the cause of the injury is
91 for a period of less than three months and the evidence demonstrates that the

92 exposure to the repetitive motion with the immediate prior employer was the
93 prevailing factor in causing the injury, the prior employer shall be liable for such
94 occupational disease.

**287.068. 1. The division shall prepare a report containing the
2 following information regarding presumed cancer claims described
3 under subdivision (2) of subsection 6 of section 287.067:**

- 4 **(1) The number of approved claims;**
5 **(2) The number of disapproved claims;**
6 **(3) The number of active claims; and**
7 **(4) The cost related to claims described under subdivisions (1)**
8 **and (3) of this subsection.**

9 **2. The division shall submit the report required under subsection**
10 **1 of this section before August 28, 2020, and an updated report every**
11 **two years thereafter, to each of the following:**

- 12 **(1) The speaker and the minority leader of the house of**
13 **representatives;**
14 **(2) The president pro tempore and the minority leader of the**
15 **senate;**
16 **(3) The Missouri Association of Fire Chiefs, or its successor**
17 **organization;**
18 **(4) The Fire Fighters Association of Missouri, or its successor**
19 **organization; and**
20 **(5) The Missouri Municipal League, or its successor organization.**

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