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.

16338.01

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Section A. Section 287.067, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 287.067 and 287.068, to read as follows:

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

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

2. An injury or death by occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting 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.
primary factor, in relation to any other factor, causing both the resulting medical
condition and disability. Ordinary, gradual deterioration, or progressive
degeneration of the body caused by aging or by the normal activities of day-to-day
living shall not be compensable.

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

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

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

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

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

a. The firefighter is a paid or volunteer firefighter who has been
assigned to at least five years of hazardous duty as a firefighter;

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

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

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

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

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

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

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

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

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

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

8. With regard to occupational disease due to repetitive motion, if the exposure to the repetitive motion which is found to be the cause of the injury is for a period of less than three months and the evidence demonstrates that the
exposure to the repetitive motion with the immediate prior employer was the prevailing factor in causing the injury, the prior employer shall be liable for such occupational disease.

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

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

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

   (1) The speaker and the minority leader of the house of representatives;
   (2) The president pro tempore and the minority leader of the senate;
   (3) The Missouri Association of Fire Chiefs, or its successor organization;
   (4) The Fire Fighters Association of Missouri, or its successor organization; and
   (5) The Missouri Municipal League, or its successor organization.