

SECOND REGULAR SESSION

# SENATE BILL NO. 710

100TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR EIGEL.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3999S.011

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## AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof two new sections relating to occupational diseases diagnosed in first responders.

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

Section A. Section 287.067, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 287.067 and 287.069, to read as  
3 follows:

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

17 3. An injury due to repetitive motion is recognized as an occupational  
18 disease for purposes of this chapter. An occupational disease due to repetitive

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

19 motion is compensable only if the occupational exposure was the prevailing factor  
20 in causing both the resulting medical condition and disability. The "prevailing  
21 factor" is defined to be the primary factor, in relation to any other factor, causing  
22 both the resulting medical condition and disability. Ordinary, gradual  
23 deterioration, or progressive degeneration of the body caused by aging or by the  
24 normal activities of day-to-day living shall not be compensable.

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

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

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

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

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

**287.069. 1. For the purposes of this section, the following terms**

2 shall mean:

3 (1) "Emergency medical technician", a person licensed in  
4 emergency medical care in accordance with standards prescribed by  
5 sections 190.001 to 190.245, and by rules adopted by the department of  
6 health and senior services pursuant to sections 190.001 to 190.245;

7 (2) "Emergency services telecommunicator", any person employed  
8 as an emergency telephone worker, call taker, or public safety  
9 dispatcher whose duties include receiving, processing, or transmitting  
10 public safety information received through a 911 public safety  
11 answering point;

12 (3) "First responder", a law enforcement officer, a firefighter, a  
13 paramedic, an emergency medical technician, a registered nurse  
14 employed to provide emergency medical services outside of a medical  
15 facility, an emergency services telecommunicator, an officer employed  
16 by the state or a political subdivision at a corrections, detention, or  
17 secure treatment facility, a sheriff or full-time deputy sheriff of any  
18 county, or a member of the state highway patrol;

19 (4) "Mental impairment", a diagnosis of post-traumatic stress  
20 disorder by a licensed psychiatrist or psychologist; and

21 (5) "Paramedic", an individual licensed with cognitive knowledge  
22 and a scope of practice that corresponds to that level in the National  
23 EMS Education Standards and National EMS Scope of Practice Model;

24 (6) "Post-traumatic stress disorder", the condition as described  
25 in the most recently published edition of the Diagnostic and Statistical  
26 Manual of Mental Disorders by the American Psychiatric Association.

27 2. If, preceding the date of injury or death, an employee who was  
28 employed on active duty as a first responder is diagnosed with a mental  
29 impairment and had not been diagnosed with the mental impairment  
30 previously, then the mental impairment shall presumptively be  
31 considered an occupational disease and shall be presumed to have  
32 arisen out of and in the course of employment. This presumption may  
33 be rebutted by substantial factors brought by the employer or  
34 insurer. Any substantial factors that are used to rebut this  
35 presumption and that are known to the employer or insurer at the time  
36 of the denial of liability shall be communicated to the employee on the  
37 denial of liability.

38 3. One or more compensable mental impairment claims arising

39 out of a single accident shall constitute a single injury.

40           4. A mental impairment shall not be considered an occupational  
41 disease if it results from a disciplinary action, work evaluation, job  
42 transfer, layoff, demotion, promotion, termination, retirement, or  
43 similar action taken in good faith by the employer.

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