

1 A bill to be entitled
 2 An act relating to workers' compensation for first
 3 responders; creating s. 112.1815, F.S.; providing a
 4 definition of the term "first responder"; providing a
 5 standard of proof for first responders with an injury or
 6 disease caused by exposure to a toxic substance; providing
 7 that any adverse result or complication relating to
 8 smallpox vaccinations is an injury by accident arising out
 9 of employment for first responders; providing a standard
 10 of proof for first responders in cases involving
 11 occupational disease; providing for the continuation of
 12 permanent total supplemental benefits after the age of 62
 13 for certain first responders; providing a method for
 14 determining attorney's fees for first responders in cases
 15 involving exposure to toxic substances or occupational
 16 diseases; providing a definition of the term "occupational
 17 disease"; providing that the act fulfills an important
 18 state interest; providing an effective date.

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 20 Be It Enacted by the Legislature of the State of Florida:

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 22 Section 1. Section 112.1815, Florida Statutes, is created
 23 to read:

24 112.1815 Firefighters, paramedics, emergency medical
 25 technicians and law enforcement officers; special provisions for
 26 employment-related accidents and injuries.--

27 (1) The term "first responder" as used in this section
 28 means a law enforcement officer as defined in s. 943.10, a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

29 firefighter as defined in s. 633.30, and an emergency medical
 30 technician or paramedic as defined in s. 401.23 employed by
 31 state or local government. A volunteer engaged by state or local
 32 government is also considered a first responder for purposes of
 33 this section.

34 (2)(a) For the purpose of determining benefits of this
 35 section relating to employment-related accidents and injuries of
 36 first responders, the following shall apply:

37 1. An injury or disease caused by the exposure to a toxic
 38 substance is not an injury by accident arising out of employment
 39 unless there is a preponderance of the evidence establishing
 40 that exposure to the specific substance involved, at the levels
 41 to which the first responder was exposed, can cause the injury
 42 or disease sustained by the employee.

43 2. Any adverse result or complication caused by a smallpox
 44 vaccination of a first responder is deemed to be an injury by
 45 accident arising out of work performed in the course and scope
 46 of employment.

47 3. A mental or nervous injury involving a first responder
 48 and occurring as a manifestation of a compensable injury must be
 49 demonstrated by clear and convincing evidence. For a mental or
 50 nervous injury involving a first responder, payment of medical
 51 benefits under chapter 440 shall be made even if the first
 52 responder's mental or nervous injury is unaccompanied by a
 53 physical injury. However, payment of indemnity as provided in s.
 54 440.15 may not be made unless a physical injury accompanies the
 55 mental or nervous injury. Benefits for a first responder are not
 56 subject to any limitation on temporary benefits under s. 440.093

57 or any limitation on permanent impairment benefits under s.
58 440.15(3)(c).

59 (b) In cases involving occupational disease, both
60 causation and sufficient exposure to a specific harmful
61 substance shown to be present in the workplace to support
62 causation shall be proven by a preponderance of the evidence.

63 (3) Permanent total supplemental benefits received by a
64 first responder whose employer does not participate in the
65 social security program shall not terminate after the first
66 responder attains the age of 62.

67 (4) The finder of fact and law is not bound by any
68 statutory provision regarding attorney's fees relating to the
69 provision of indemnity or medical benefits for employment-
70 related accidents or injuries involving exposure to a toxic
71 substance or occupational disease but must consider the
72 following factors when awarding an attorney's fee:

73 (a) The time and labor required, the novelty and
74 difficulty of the questions involved, and the skill required to
75 perform the legal service properly.

76 (b) The fee customarily charged in the locality for
77 similar legal services.

78 (c) The amount involved in the controversy and the
79 benefits payable to the claimant.

80 (d) The time limitations imposed by the claimant or the
81 circumstances.

82 (e) The experience, reputation, and ability of the
83 attorney or attorneys performing services.

84 (f) The contingency or certainty of a fee.

85 (5) For the purposes of this section, the term
86 "occupational disease" means only a disease that is due to
87 causes and conditions that are characteristic of and peculiar to
88 a particular trade, occupation, process, or employment and
89 excludes all ordinary diseases of life to which the general
90 public is exposed, unless the incidence of the disease is
91 substantially higher in the particular trade, occupation,
92 process, or employment than for the general public.

93 Section 2. The Legislature finds that this act fulfills an
94 important state interest.

95 Section 3. This act shall take effect upon becoming a law.