

By Senator Alexander

17-233A-06

See HB 141

1 A bill to be entitled

2 An act relating to workers' compensation for

3 first responders; creating s. 112.1815, F.S.;

4 providing a definition of the term "first

5 responder"; providing a standard of proof for

6 first responders with an injury or disease

7 caused by exposure to a toxic substance;

8 providing that any adverse result or

9 complication relating to smallpox vaccinations

10 is an injury by accident arising out of

11 employment for first responders; providing a

12 standard of proof for first responders in cases

13 involving occupational disease; providing for

14 the continuation of permanent total

15 supplemental benefits after the age of 62 for

16 certain first responders; providing a method

17 for determining attorney's fees for first

18 responders in cases involving exposure to toxic

19 substances or occupational diseases; providing

20 a definition of the term "occupational

21 disease"; providing that the act fulfills an

22 important state interest; providing an

23 effective date.

24

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

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27 Section 1. Section 112.1815, Florida Statutes, is

28 created to read:

29 112.1815 Firefighters, paramedics, emergency medical

30 technicians and law enforcement officers; special provisions

31 for employment-related accidents and injuries.--

1 (1) The term "first responder" as used in this section
2 means a law enforcement officer as defined in s. 943.10, a
3 firefighter as defined in s. 633.30, and an emergency medical
4 technician or paramedic as defined in s. 401.23 employed by
5 state or local government. A volunteer engaged by state or
6 local government is also considered a first responder for
7 purposes of this section.

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

11 1. An injury or disease caused by the exposure to a
12 toxic substance is not an injury by accident arising out of
13 employment unless there is a preponderance of the evidence
14 establishing that exposure to the specific substance involved,
15 at the levels to which the first responder was exposed, can
16 cause the injury or disease sustained by the employee.

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

21 3. A mental or nervous injury involving a first
22 responder and occurring as a manifestation of a compensable
23 injury must be demonstrated by clear and convincing evidence.
24 For a mental or nervous injury involving a first responder,
25 payment of medical benefits under chapter 440 shall be made
26 even if the first responder's mental or nervous injury is
27 unaccompanied by a physical injury. However, payment of
28 indemnity as provided in s. 440.15 may not be made unless a
29 physical injury accompanies the mental or nervous injury.
30 Benefits for a first responder are not subject to any
31 limitation on temporary benefits under s. 440.093 or any

1 limitation on permanent impairment benefits under s.
2 440.15(3)(c).

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

7 (3) Permanent total supplemental benefits received by
8 a first responder whose employer does not participate in the
9 social security program shall not terminate after the first
10 responder attains the age of 62.

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

17 (a) The time and labor required, the novelty and
18 difficulty of the questions involved, and the skill required
19 to perform the legal service properly.

20 (b) The fee customarily charged in the locality for
21 similar legal services.

22 (c) The amount involved in the controversy and the
23 benefits payable to the claimant.

24 (d) The time limitations imposed by the claimant or
25 the circumstances.

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

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

29 (5) For the purposes of this section, the term
30 "occupational disease" means only a disease that is due to
31 causes and conditions that are characteristic of and peculiar

1 to a particular trade, occupation, process, or employment and
2 excludes all ordinary diseases of life to which the general
3 public is exposed, unless the incidence of the disease is
4 substantially higher in the particular trade, occupation,
5 process, or employment than for the general public.

6 Section 2. The Legislature finds that this act
7 fulfills an important state interest.

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

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