

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.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 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
 26 for 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

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

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

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

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

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

57 subject to any limitation on temporary benefits under s. 440.093
58 or any limitation on permanent impairment benefits under s.
59 440.15(3)(c).

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

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

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

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

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

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

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

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

HB 45

2007

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

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

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

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