## Florida Senate - 2007

By Senator Alexander

	17-816-07 See HB 45
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.
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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

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1	(1) The term "first responder" as used in this section
2	<u>means a law enforcement officer as defined in s. 943.10, a</u>
3	firefighter as defined in s. 633.30, or an emergency medical
4	technician or paramedic as defined in s. 401.23 employed by
5	state or local government. A volunteer law enforcement
б	officer, firefighter, or emergency medical technician or
7	paramedic engaged by state or local government is also
8	considered a first responder for purposes of this section.
9	(2)(a) For the purpose of determining benefits under
10	this section relating to employment-related accidents and
11	injuries of first responders, the following shall apply:
12	1. An injury or disease caused by the exposure to a
13	toxic substance is not an injury by accident arising out of
14	employment unless there is a preponderance of the evidence
15	establishing that exposure to the specific substance involved,
16	at the levels to which the first responder was exposed, can
17	cause the injury or disease sustained by the employee.
18	2. Any adverse result or complication caused by a
19	smallpox vaccination of a first responder is deemed to be an
20	injury by accident arising out of work performed in the course
21	and scope of employment.
22	3. A mental or nervous injury involving a first
23	responder and occurring as a manifestation of a compensable
24	injury must be demonstrated by clear and convincing evidence.
25	For a mental or nervous injury involving a first responder,
26	payment of medical benefits under chapter 440 shall be made
27	even if the first responder's mental or nervous injury is
28	unaccompanied by a physical injury. However, payment of
29	indemnity as provided in s. 440.15 may not be made unless a
30	physical injury accompanies the mental or nervous injury.
31	Benefits for a first responder are not subject to any

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1 limitation on temporary benefits under s. 440.093 or any 2 limitation on permanent impairment benefits under s. 440.15(3)(c). 3 4 (b) In cases involving occupational disease, both causation and sufficient exposure to a specific harmful 5 6 substance shown to be present in the workplace to support 7 causation shall be proven by a preponderance of the evidence. 8 (3) Permanent total supplemental benefits received by a first responder whose employer does not participate in the 9 10 social security program shall not terminate after the first responder attains the age of 62. 11 12 (4) The finder of fact and law is not bound by any 13 statutory provision regarding attorney's fees relating to the 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 17 the following factors when awarding an attorney's fee: 18 (a) The time and labor required, the novelty and difficulty of the questions involved, and the skill required 19 to perform the legal service properly. 20 21 (b) The fee customarily charged in the locality for similar legal services. 2.2 23 (c) The amount involved in the controversy and the benefits payable to the claimant. 2.4 (d) The time limitations imposed by the claimant or 25 the circumstances. 26 27 (e) The experience, reputation, and ability of the 2.8 attorney or attorneys performing services. (f) The contingency or certainty of a fee. 29 (5) For the purposes of this section, the term 30 31 "occupational disease" means only a disease that is due to

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1	causes and conditions that are characteristic of and peculiar
2	to a particular trade, occupation, process, or employment and
3	excludes all ordinary diseases of life to which the general
4	public is exposed, unless the incidence of the disease is
5	substantially higher in the particular trade, occupation,
б	process, or employment than for the general public.
7	Section 2. <u>The Legislature finds that this act</u>
8	<u>fulfills an important state interest.</u>
9	Section 3. This act shall take effect upon becoming a
10	law.
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