

B-Engrossed
Senate Bill 560

Ordered by the House June 15
Including Senate Amendments dated May 25 and House Amendments
dated June 15

Sponsored by COMMITTEE ON COMMERCE (at the request of Oregon State Fire Fighters Council)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes presumption that certain cancers are compensable occupational diseases for certain firefighters. Requires certain cities to apply presumption to claims by firefighters employed by city. Authorizes Hearings Division of Workers' Compensation Board to enter into agreements with cities to provide Administrative Law Judges to conduct hearings on certain disputes.

A BILL FOR AN ACT

1
2 Relating to claims for work-related injuries by certain public safety officers; amending ORS 656.708
3 and 656.802.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.802 is amended to read:

6 656.802. (1)(a) As used in this chapter, "occupational disease" means any disease or infection
7 arising out of and in the course of employment caused by substances or activities to which an em-
8 ployee is not ordinarily subjected or exposed other than during a period of regular actual employ-
9 ment therein, and which requires medical services or results in disability or death, including:

10 (A) Any disease or infection caused by ingestion of, absorption of, inhalation of or contact with
11 dust, fumes, vapors, gases, radiation or other substances.

12 (B) Any mental disorder, whether sudden or gradual in onset, which requires medical services
13 or results in physical or mental disability or death.

14 (C) Any series of traumatic events or occurrences which requires medical services or results in
15 physical disability or death.

16 (b) As used in this chapter, "mental disorder" includes any physical disorder caused or worsened
17 by mental stress.

18 (2)(a) The worker must prove that employment conditions were the major contributing cause of
19 the disease.

20 (b) If the occupational disease claim is based on the worsening of a preexisting disease or con-
21 dition pursuant to ORS 656.005 (7), the worker must prove that employment conditions were the
22 major contributing cause of the combined condition and pathological worsening of the disease.

23 (c) Occupational diseases shall be subject to all of the same limitations and exclusions as acci-
24 dental injuries under ORS 656.005 (7).

25 (d) Existence of an occupational disease or worsening of a preexisting disease must be estab-
26 lished by medical evidence supported by objective findings.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (e) Preexisting conditions shall be deemed causes in determining major contributing cause under
2 this section.

3 (3) Notwithstanding any other provision of this chapter, a mental disorder is not compensable
4 under this chapter unless the worker establishes all of the following:

5 (a) The employment conditions producing the mental disorder exist in a real and objective sense.

6 (b) The employment conditions producing the mental disorder are conditions other than condi-
7 tions generally inherent in every working situation or reasonable disciplinary, corrective or job
8 performance evaluation actions by the employer, or cessation of employment or employment deci-
9 sions attendant upon ordinary business or financial cycles.

10 (c) There is a diagnosis of a mental or emotional disorder which is generally recognized in the
11 medical or psychological community.

12 (d) There is clear and convincing evidence that the mental disorder arose out of and in the
13 course of employment.

14 (4)(a) Death, disability or impairment of health of firefighters of any political division who have
15 completed five or more years of employment as firefighters[,] **is an occupational disease if the**
16 **death, disability or impairment of health:**

17 (A) Is caused by any disease of the lungs or respiratory tract, hypertension or cardiovascular-
18 renal disease[,] and

19 (B) Results [Resulting] from their employment as firefighters. [*is an "occupational disease."*]

20 (b) **Death, disability or impairment of health of nonvolunteer, full-time, fully compen-**
21 **sated firefighters of any political division who have completed five or more years of employ-**
22 **ment as nonvolunteer, full-time, fully compensated firefighters is an occupational disease if**
23 **the death, disability or impairment of health:**

24 (A) **Is caused by brain cancer, colon cancer, stomach cancer, testicular cancer, prostate**
25 **cancer, multiple myeloma or non-Hodgkin's lymphoma; and**

26 (B) **Results from their employment as nonvolunteer, full-time, fully compensated fire-**
27 **fighters.**

28 (c) **The presumption for the conditions described in paragraph (b) of this subsection ap-**
29 **plies only to nonvolunteer, full-time, fully compensated firefighters who receive a federal**
30 **income tax wage withholding form from the fire departments or districts that employ the**
31 **firefighters.**

32 (d) **The presumption for the conditions described in paragraph (b) of this subsection apply**
33 **to eligible firefighters who cease to be employed as qualifying firefighters for a period of 120**
34 **months from the last date that the firefighters were employed in qualifying employment as**
35 **firefighters.**

36 (e) Any condition or impairment of health arising under this subsection shall be presumed to
37 result from a firefighter's employment. However, any such firefighter must have taken a physical
38 examination upon becoming a firefighter, or subsequently thereto, which failed to reveal any evi-
39 dence of such condition or impairment of health which preexisted employment. Denial of a claim for
40 any condition or impairment of health arising under this subsection must be on the basis of clear
41 and convincing medical evidence that the cause of the condition or impairment is unrelated to the
42 firefighter's employment.

43 (f) **Notwithstanding ORS 656.027 (6), any city providing a disability and retirement system**
44 **by ordinance or charter for firefighters and police officers not subject to this chapter shall**
45 **apply the presumptions established under this section when processing claims for firefighters**

1 covered by the system.

2 (g) The provisions of this subsection do not apply to inmates committed to the physical
3 and legal custody of the Department of Corrections or any political subdivision of this state.

4 **SECTION 2.** ORS 656.708 is amended to read:

5 656.708. (1) The Hearings Division is continued within the Workers' Compensation Board. The
6 division has the responsibility for providing an impartial forum for deciding all cases, disputes and
7 controversies arising under ORS 654.001 to 654.295 and 654.750 to 654.780, all cases, disputes and
8 controversies regarding matters concerning a claim under this chapter, and for conducting such
9 other hearings and proceedings as may be prescribed by law.

10 (2) The Hearings Division may enter into an agreement with any city providing a disa-
11 bility and retirement system by ordinance or charter for firefighters and police officers not
12 subject to this chapter to provide Administrative Law Judges employed by the Workers'
13 Compensation Board under ORS 656.724 to hold hearings or other proceedings to decide any
14 cases, disputes and controversies arising under the disability and retirement system.

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