

# House Bill 2577

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Council of Police Associations)

## 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 **as introduced**.

Establishes presumption that certain bloodborne diseases are compensable occupational diseases for public safety officers.

## A BILL FOR AN ACT

1  
2 Relating to workers' compensation claims for bloodborne diseases by public safety officers; amending  
3 ORS 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.

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

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

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

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

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

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

9 (4) Death, disability or impairment of health of firefighters of any political division who have  
 10 completed five or more years of employment as firefighters, caused by any disease of the lungs or  
 11 respiratory tract, hypertension or cardiovascular-renal disease, and resulting from their employment  
 12 as firefighters is an "occupational disease." Any condition or impairment of health arising under this  
 13 subsection shall be presumed to result from a firefighter's employment. However, any such fire-  
 14 fighter must have taken a physical examination upon becoming a firefighter, or subsequently thereto,  
 15 which failed to reveal any evidence of such condition or impairment of health which preexisted  
 16 employment. Denial of a claim for any condition or impairment of health arising under this sub-  
 17 section must be on the basis of clear and convincing medical evidence that the cause of the condi-  
 18 tion or impairment is unrelated to the firefighter's employment.

19 **(5)(a) Death, disability or impairment of health of public safety officers of any political**  
 20 **division who have completed five or more years of employment as public safety officers,**  
 21 **caused by hepatitis C, human immunodeficiency virus (HIV) or methicillin-resistant**  
 22 **Staphylococcus aureus (MRSA), and resulting from their employment as public safety offi-**  
 23 **cers is an "occupational disease." Any condition or impairment of health arising under this**  
 24 **subsection shall be presumed to result from a public safety officer's employment. However,**  
 25 **any such public safety officer must have taken a physical examination upon becoming a**  
 26 **public safety officer, or subsequently thereto, which failed to reveal any evidence of such**  
 27 **condition or impairment of health which preexisted employment. Denial of a claim for any**  
 28 **condition or impairment of health arising under this subsection must be on the basis of clear**  
 29 **and convincing medical evidence that the cause of the condition or impairment is unrelated**  
 30 **to the public safety officer's employment.**

31 (b) As used in this subsection, "public safety officer" means a corrections officer, youth  
 32 corrections officer, parole and probation officer, emergency medical technician, firefighter,  
 33 sheriff, marshal, police officer or Oregon State Police officer.

34