

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HOUSE BILL 2161

AN ACT

AMENDING SECTION 23-901.01, ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-901.01, Arizona Revised Statutes, is amended
3 to read:

4 23-901.01. Occupational disease; proximate causation;
5 definitions

6 A. The occupational diseases as defined by section 23-901,
7 paragraph 13, subdivision (c) shall be deemed to arise out of the
8 employment only if all of the following six requirements exist:

9 1. There is a direct causal connection between the conditions under
10 which the work is performed and the occupational disease.

11 2. The disease can be seen to have followed as a natural incident
12 of the work as a result of the exposure occasioned by the nature of the
13 employment.

14 3. The disease can be fairly traced to the employment as the
15 proximate cause.

16 4. The disease does not come from a hazard to which workers would
17 have been equally exposed outside of the employment.

18 5. The disease is incidental to the character of the business and
19 not independent of the relation of employer and employee.

20 6. The disease after its contraction appears to have had its origin
21 in a risk connected with the employment, and to have flowed from that
22 source as a natural consequence, although it need not have been foreseen
23 or expected.

24 B. Notwithstanding subsection A of this section and section
25 23-1043.01: ~~;~~

26 1. Any disease, infirmity or impairment of a firefighter's or peace
27 officer's health that is caused by brain, bladder, rectal or colon cancer,
28 lymphoma, leukemia or ~~aden carcinoma~~ ADENOCARCINOMA or mesothelioma of the
29 respiratory tract and that results in disability or death is presumed to
30 be an occupational disease as defined in section 23-901, paragraph 13,
31 subdivision (c) and is deemed to arise out of employment.

32 2. ANY DISEASE, INFIRMITY OR IMPAIRMENT OF A FIREFIGHTER'S HEALTH
33 THAT IS CAUSED BY BUCCAL CAVITY AND PHARYNX, ESOPHAGUS, LARGE INTESTINE,
34 LUNG, KIDNEY, PROSTATE, SKIN, STOMACH OR TESTICULAR CANCER OR
35 NON-HODGKIN'S LYMPHOMA, MULTIPLE MYELOMA OR MALIGNANT MELANOMA AND THAT
36 RESULTS IN DISABILITY OR DEATH IS PRESUMED TO BE AN OCCUPATIONAL DISEASE
37 AS DEFINED IN SECTION 23-901, PARAGRAPH 13, SUBDIVISION (c) AND IS DEEMED
38 TO ARISE OUT OF EMPLOYMENT.

39 C. The ~~presumption is~~ PRESUMPTIONS PROVIDED IN SUBSECTION B OF THIS
40 SECTION ARE granted if all of the following apply:

41 1. The firefighter or peace officer passed a physical examination
42 before employment and the examination did not indicate evidence of cancer.

43 2. The firefighter or peace officer was assigned to hazardous duty
44 for at least five years.

1 3. The firefighter or peace officer was exposed to a known
2 carcinogen as defined by the international agency for research on cancer
3 and informed the department of this exposure, and the carcinogen is
4 reasonably related to the cancer.

5 4. FOR THE PRESUMPTION PROVIDED IN SUBSECTION B, PARAGRAPH 2 OF
6 THIS SECTION, THE FIREFIGHTER RECEIVED A PHYSICAL EXAMINATION THAT IS
7 REASONABLY ALIGNED WITH THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD
8 ON COMPREHENSIVE OCCUPATIONAL MEDICAL PROGRAM FOR FIRE DEPARTMENTS
9 (NFPA 1582).

10 ~~E.~~ D. Subsection B of this section applies to former firefighters
11 ~~and~~ OR peace officers who are sixty-five years of age or younger AND WHO
12 ARE DIAGNOSED WITH A CANCER THAT IS LISTED IN SUBSECTION B OF THIS SECTION
13 NOT MORE THAN FIFTEEN YEARS AFTER THE FIREFIGHTER'S OR PEACE OFFICER'S
14 LAST DATE OF EMPLOYMENT AS A FIREFIGHTER OR PEACE OFFICER.

15 ~~D.~~ E. Subsection B of this section does not apply to cancers of
16 the respiratory tract if ~~the firefighter or peace officer has smoked~~
17 ~~tobacco products~~ THERE IS EVIDENCE THAT THE FIREFIGHTER'S OR PEACE
18 OFFICER'S EXPOSURE TO CIGARETTES OR TOBACCO PRODUCTS OUTSIDE OF THE SCOPE
19 OF THE FIREFIGHTER'S OR PEACE OFFICER'S OFFICIAL DUTIES IS A SUBSTANTIAL
20 CONTRIBUTING CAUSE IN THE DEVELOPMENT OF THE CANCER.

21 F. THE PRESUMPTIONS PROVIDED IN SUBSECTION B OF THIS SECTION MAY BE
22 REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT THERE IS A SPECIFIC CAUSE
23 OF THE CANCER OTHER THAN AN OCCUPATIONAL EXPOSURE TO A CARCINOGEN AS
24 DEFINED BY THE INTERNATIONAL AGENCY FOR RESEARCH ON CANCER.

25 ~~E.~~ G. For the purposes of this section:

26 1. "Firefighter" means a full-time firefighter who was regularly
27 assigned to hazardous duty.

28 2. "Peace officer" means a full-time peace officer who was
29 regularly assigned to hazardous duty as a part of a special operations,
30 special weapons and tactics, explosive ordinance disposal or hazardous
31 materials response unit.