

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

CHAPTER 325
HOUSE BILL 2410

AN ACT

AMENDING SECTION 23-901, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 6, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-1043.05; 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, Arizona Revised Statutes, is amended to
3 read:

4 **23-901. Definitions**

5 In this chapter, unless the context otherwise requires:

6 1. "Award" means the finding or decision of an administrative law
7 judge or the commission as to the amount of compensation or benefit due an
8 injured employee or the dependents of a deceased employee.

9 2. "Client" means an individual, association, company, firm,
10 partnership, corporation or any other legally recognized entity that is
11 subject to this chapter and that enters into a professional employer
12 agreement with a professional employer organization.

13 3. "Co-employee" means every person employed by an injured
14 employee's employer.

15 4. "Commission" means the industrial commission of Arizona.

16 5. "Compensation" means the compensation and benefits provided by
17 this chapter.

18 6. "Employee", "workman", "worker" and "operative" means:

19 (a) Every person in the service of the state or a county, city,
20 town, municipal corporation or school district, including regular members
21 of lawfully constituted police and fire departments of cities and towns,
22 whether by election, appointment or contract of hire.

23 (b) Every person in the service of any employer subject to this
24 chapter, including aliens and minors legally or illegally permitted to
25 work for hire, but not including a person whose employment is both:

26 (i) Casual.

27 (ii) Not in the usual course of the trade, business or occupation
28 of the employer.

29 (c) Lessees of mining property and ~~their~~ THE LESSEES' employees and
30 contractors engaged in the performance of work that is a part of the
31 business conducted by the lessor and over which the lessor retains
32 supervision or control are within the meaning of this paragraph employees
33 of the lessor, and are deemed to be drawing wages as are usually paid
34 employees for similar work. The lessor may deduct from the proceeds of
35 ores mined by the lessees the premium required by this chapter to be paid
36 for such employees.

37 (d) Regular members of volunteer fire departments organized
38 pursuant to title 48, chapter 5, article 1, regular firemen of any
39 volunteer fire department, including private fire protection service
40 organizations, organized pursuant to title 10, chapters 24 through 40,
41 volunteer firemen serving as members of a fire department of any
42 incorporated city or town or an unincorporated area without pay or without
43 full pay and on a part-time basis, and voluntary policemen and volunteer
44 firemen serving in any incorporated city, town or unincorporated area
45 without pay or without full pay and on a part-time basis, are deemed to be

1 employees, but for the purposes of this chapter, the basis for computing
2 wages for premium payments and compensation benefits for regular members
3 of volunteer fire departments organized pursuant to title 48, chapter 5,
4 article 1, or organized pursuant to title 10, chapters 24 through 40,
5 regular members of any private fire protection service organization,
6 volunteer firemen and volunteer policemen of these departments or
7 organizations shall be the salary equal to the beginning salary of the
8 same rank or grade in the full-time service with the city, town, volunteer
9 fire department or private fire protection service organization, provided
10 if there is no full-time equivalent then the salary equivalent shall be as
11 determined by resolution of the governing body of the city, town or
12 volunteer fire department or corporation.

13 (e) Members of the department of public safety reserve, organized
14 pursuant to section 41-1715, are deemed to be employees. For the purposes
15 of this chapter, the basis for computing wages for premium payments and
16 compensation benefits for a member of the department of public safety
17 reserve who is a peace officer shall be the salary received by officers of
18 the department of public safety for ~~their~~ THE OFFICERS' first month of
19 regular duty as an officer. For members of the department of public
20 safety reserve who are not peace officers, the basis for computing
21 premiums and compensation benefits is four hundred dollars a month.

22 (f) Any person placed in on-the-job evaluation or in on-the-job
23 training under the department of economic security's temporary assistance
24 for needy families program or vocational rehabilitation program shall be
25 deemed to be an employee of the department for the purpose of coverage
26 under the state workers' compensation laws only. The basis for computing
27 premium payments and compensation benefits shall be two hundred dollars
28 per month. Any person receiving vocational rehabilitation services under
29 the department of economic security's vocational rehabilitation program
30 whose major evaluation or training activity is academic, whether as an
31 enrolled attending student or by correspondence, or who is confined to a
32 hospital or penal institution, shall not be deemed to be an employee of
33 the department for any purpose.

34 (g) Regular members of a volunteer sheriff's reserve, which may be
35 established by resolution of the county board of supervisors, to assist
36 the sheriff in the performance of the sheriff's official duties. A roster
37 of the current members shall monthly be certified to the clerk of the
38 board of supervisors by the sheriff and shall not exceed the maximum
39 number authorized by the board. Certified members of an authorized
40 volunteer sheriff's reserve shall be deemed to be employees of the county
41 for the purpose of coverage under the Arizona workers' compensation laws
42 and occupational disease disability laws and shall be entitled to receive
43 the benefits of these laws for any compensable injuries or disabling
44 conditions that arise out of and occur in the course of the performance of
45 duties authorized and directed by the sheriff. Compensation benefits and

1 premium payments shall be based ~~upon~~ ON the salary received by a regular
2 full-time deputy sheriff of the county involved for the first month of
3 regular patrol duty as an officer for each certified member of a volunteer
4 sheriff's reserve. This subdivision ~~shall not be construed to~~ DOES NOT
5 provide compensation coverage for any member of a sheriff's posse who is
6 not a certified member of an authorized volunteer sheriff's reserve except
7 as a participant in a search and rescue mission or a search and rescue
8 training mission.

9 (h) A working member of a partnership may be deemed to be an
10 employee entitled to the benefits provided by this chapter ~~upon~~ ON written
11 acceptance, by endorsement, at the discretion of the insurance carrier for
12 the partnership of an application for coverage by the working partner.
13 The basis for computing premium payments and compensation benefits for the
14 working partner shall be an assumed average monthly wage of not less than
15 six hundred dollars nor more than the maximum wage provided in section
16 23-1041 and is subject to the discretionary approval of the insurance
17 carrier. Any compensation for permanent partial or permanent total
18 disability payable to the partner shall be computed on the lesser of the
19 assumed monthly wage agreed to by the insurance carrier on the acceptance
20 of the application for coverage or the actual average monthly wage
21 received by the partner at the time of injury.

22 (i) The sole proprietor of a business subject to this chapter may
23 be deemed to be an employee entitled to the benefits provided by this
24 chapter on written acceptance, by endorsement, at the discretion of the
25 insurance carrier of an application for coverage by the sole proprietor.
26 The basis for computing premium payments and compensation benefits for the
27 sole proprietor shall be an assumed average monthly wage of not less than
28 six hundred dollars nor more than the maximum wage provided by section
29 23-1041 and is subject to the discretionary approval of the insurance
30 carrier. Any compensation for permanent partial or permanent total
31 disability payable to the sole proprietor shall be computed on the lesser
32 of the assumed monthly wage agreed to by the insurance carrier on the
33 acceptance of the application for coverage or the actual average monthly
34 wage received by the sole proprietor at the time of injury.

35 (j) A member of the Arizona national guard, Arizona state guard or
36 unorganized militia shall be deemed a state employee and entitled to
37 coverage under the Arizona workers' compensation law at all times while
38 the member is receiving the payment of the member's military salary from
39 ~~the THIS state of Arizona~~ under competent military orders or ~~upon~~ ON order
40 of the governor. Compensation benefits shall be based ~~upon~~ ON the monthly
41 military pay rate to which the member is entitled at the time of injury,
42 but not less than a salary of four hundred dollars per month, nor more
43 than the maximum provided by the workers' compensation law. ~~to~~ Arizona
44 compensation benefits shall NOT inure to a member compensable under
45 federal law.

1 (k) Certified ambulance drivers and attendants who serve without
2 pay or without full pay on a part-time basis are deemed to be employees
3 and entitled to the benefits provided by this chapter and the basis for
4 computing wages for premium payments and compensation benefits for
5 certified ambulance personnel shall be four hundred dollars per month.

6 (l) Volunteer workers of a licensed health care institution may be
7 deemed to be employees and entitled to the benefits provided by this
8 chapter ~~upon~~ ON written acceptance by the insurance carrier of an
9 application by the health care institution for coverage of such
10 volunteers. The basis for computing wages for premium payments and
11 compensation benefits for volunteers shall be four hundred dollars per
12 month.

13 (m) Personnel who participate in a search or rescue operation or a
14 search or rescue training operation that carries a mission identifier
15 assigned by the division of emergency management as provided in section
16 35-192.01 and who serve without compensation as volunteer state employees.
17 The basis for computation of wages for premium purposes and compensation
18 benefits is the total volunteer man-hours recorded by the division of
19 emergency management in a given quarter multiplied by the amount
20 determined by the appropriate risk management formula.

21 (n) Personnel who participate in emergency management training,
22 exercises or drills that are duly enrolled or registered with the division
23 of emergency management or any political subdivision as provided in
24 section 26-314, subsection C and who serve without compensation as
25 volunteer state employees. The basis for computation of wages for premium
26 purposes and compensation benefits is the total volunteer man-hours
27 recorded by the division of emergency management or political subdivision
28 during a given training session, exercise or drill multiplied by the
29 amount determined by the appropriate risk management formula.

30 (o) Regular members of the Arizona game and fish department
31 reserve, organized pursuant to section 17-214. The basis for computing
32 wages for premium payments and compensation benefits for a member of the
33 reserve is the salary received by game rangers and wildlife managers of
34 the Arizona game and fish department for ~~their~~ THE GAME RANGERS' AND
35 WILDLIFE MANAGERS' first month of regular duty.

36 (p) Every person employed pursuant to a professional employer
37 agreement.

38 7. "General order" means an order applied generally throughout the
39 state to all persons under jurisdiction of the commission.

40 8. "Heart-related or perivascular injury, illness or death" means
41 myocardial infarction, coronary thrombosis or any other similar sudden,
42 violent or acute process involving the heart or perivascular system, or
43 any death resulting therefrom, and any weakness, disease or other
44 condition of the heart or perivascular system, or any death resulting
45 therefrom.

1 9. "Insurance carrier" means every insurance carrier duly
2 authorized by the director of insurance to write workers' compensation or
3 occupational disease compensation insurance in ~~the THIS state of Arizona~~.

4 10. "Interested party" means the employer, the employee, or if the
5 employee is deceased, the employee's estate, the surviving spouse or
6 dependents, the commission, the insurance carrier or their representative.

7 11. "Mental injury, illness or condition" means any mental,
8 emotional, psychotic or neurotic injury, illness or condition.

9 12. "Order" means and includes any rule, direction, requirement,
10 standard, determination or decision other than an award or a directive by
11 the commission or an administrative law judge relative to any entitlement
12 to compensation benefits, or to the amount thereof, and any procedural
13 ruling relative to the processing or adjudicating of a compensation
14 matter.

15 13. "Personal injury by accident arising out of and in the course
16 of employment" means any of the following:

17 (a) Personal injury by accident arising out of and in the course of
18 employment.

19 (b) An injury caused by the wilful act of a third person directed
20 against an employee because of the employee's employment, but does not
21 include a disease unless resulting from the injury.

22 (c) An occupational disease that is due to causes and conditions
23 characteristic of and peculiar to a particular trade, occupation, process
24 or employment, and not the ordinary diseases to which the general public
25 is exposed, and subject to section 23-901.01 OR, FOR HEART-RELATED,
26 PERIVASCULAR OR PULMONARY CASES, SECTION 23-1043.05.

27 14. "Professional employer agreement" means a written contract
28 between a client and a professional employer organization:

29 (a) In which the professional employer organization expressly
30 agrees to co-employ all or a majority of the employees providing services
31 for the client. In determining whether the professional employer
32 organization employs all or a majority of the employees of a client, any
33 person employed pursuant to the terms of the professional employer
34 agreement after the initial placement of client employees on the payroll
35 of the professional employer organization shall be included.

36 (b) That is intended to be ongoing rather than temporary in nature.

37 (c) In which employer responsibilities for worksite employees,
38 including hiring, firing and disciplining, are expressly allocated between
39 the professional employer organization and the client in the agreement.

40 15. "Professional employer organization" means any person engaged
41 in the business of providing professional employer services. Professional
42 employer organization does not include a temporary help firm or an
43 employment agency.

44 16. "Professional employer services" means the service of entering
45 into co-employment relationships under this chapter to which all or a

1 majority of the employees providing services to a client or to a division
2 or work unit of a client are covered employees.

3 17. "Special order" means an order other than a general order.

4 18. "Weakness, disease or other condition of the heart or
5 perivascular system" means arteriosclerotic heart disease, cerebral
6 vascular disease, peripheral vascular disease, cardiovascular disease,
7 angina pectoris, congestive heart trouble, coronary insufficiency,
8 ischemia and all other similar weaknesses, diseases and conditions, and
9 also previous episodes or instances of myocardial infarction, coronary
10 thrombosis or any similar sudden, violent or acute process involving the
11 heart or perivascular system.

12 19. "Workers' compensation" means workmen's compensation as used in
13 article XVIII, section 8, Constitution of Arizona.

14 Sec. 2. Title 23, chapter 6, article 8, Arizona Revised Statutes,
15 is amended by adding section 23-1043.05, to read:

16 23-1043.05. Heart-related, perivascular and pulmonary cases;
17 firefighters: definition

18 A. A HEART-RELATED, PERIVASCULAR OR PULMONARY INJURY, ILLNESS OR
19 DEATH OF A FIREFIGHTER IS PRESUMED TO BE AN OCCUPATIONAL DISEASE AS
20 DEFINED IN SECTION 23-901, PARAGRAPH 13, SUBDIVISION (c), COMPENSABLE
21 PURSUANT TO SECTION 23-1043.01 AND DEEMED TO ARISE OUT OF EMPLOYMENT IF
22 ALL OF THE FOLLOWING APPLY:

23 1. THE FIREFIGHTER PASSED A PHYSICAL EXAMINATION BEFORE EMPLOYMENT
24 AND THE EXAMINATION DID NOT INDICATE EVIDENCE OF HEART-RELATED,
25 PERIVASCULAR OR PULMONARY INJURY OR ILLNESS.

26 2. THE FIREFIGHTER RECEIVED A PHYSICAL EXAMINATION THAT IS
27 REASONABLY ALIGNED WITH THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD
28 ON COMPREHENSIVE OCCUPATIONAL MEDICAL PROGRAM FOR FIRE DEPARTMENTS
29 (NFPA 1582).

30 3. THE FIREFIGHTER WAS EXPOSED TO A KNOWN EVENT AND THE
31 HEART-RELATED, PERIVASCULAR OR PULMONARY INJURY, ILLNESS OR DEATH OCCURRED
32 WITHIN TWENTY-FOUR HOURS AFTER THE EXPOSURE AND WAS REASONABLY RELATED TO
33 THE EXPOSURE.

34 B. THE PRESUMPTION PROVIDED IN SUBSECTION A OF THIS SECTION MAY BE
35 REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT THERE IS A SPECIFIC CAUSE
36 OF THE HEART-RELATED, PERIVASCULAR OR PULMONARY INJURY, ILLNESS OR DEATH
37 OTHER THAN THE EMPLOYMENT.

38 C. SUBSECTION A OF THIS SECTION DOES NOT APPLY IF THERE IS EVIDENCE
39 THAT THE FIREFIGHTER'S EXPOSURE TO CIGARETTES OR TOBACCO PRODUCTS OUTSIDE
40 THE SCOPE OF THE FIREFIGHTER'S OFFICIAL DUTIES IS A SUBSTANTIAL
41 CONTRIBUTING CAUSE IN THE DEVELOPMENT OF THE HEART-RELATED, PERIVASCULAR
42 OR PULMONARY INJURY, ILLNESS OR DEATH.

43 D. FOR THE PURPOSES OF THIS SECTION, "FIREFIGHTER" MEANS A
44 FIREFIGHTER OR VOLUNTEER FIREFIGHTER AS DESCRIBED IN SECTION 23-901,
45 PARAGRAPH 6, SUBDIVISION (d).

APPROVED BY THE GOVERNOR MAY 22, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2017.