

Senate Engrossed

workers' compensation; rates; firefighters; cancer.

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1451

AN ACT

AMENDING SECTIONS 20-343, 20-359, 20-371, 23-901 AND 23-901.01, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-901.09; AMENDING TITLE 23, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-971; 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 20-343, Arizona Revised Statutes, is amended to
3 read:

4 20-343. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Board" means the workers' compensation appeals board
7 established by section 20-367.

8 2. "Classification plan" means the plan or system that groups
9 industries, occupations or operations with a similar exposure to loss into
10 rate classifications for workers' compensation rating, rate making and
11 statistical reporting purposes.

12 3. "Designated rating organization" means the rating organization
13 selected by the director pursuant to section 20-371, subsection F.

14 4. "Designated statistical agent" means the organization designated
15 by the director under section 20-371, subsection D.

16 5. "Experience rating plan" means a mandatory rating plan for all
17 eligible insureds that establishes a workers' compensation rating
18 procedure that compares the actual loss experience of individual insureds
19 to the industry average for the same classification with differences
20 reflected in the insured's premium.

21 6. "Schedule rating plan" means a rating plan by which an insurer
22 increases or decreases workers' compensation rates to reflect the
23 individual risk characteristics or the loss ratios of the subject of
24 insurance.

25 7. "Statistical plan" means the plan, system or arrangement used in
26 collecting workers' compensation data.

27 8. "Uniform plan" means a workers' compensation statistical plan,
28 classification plan or experience rating plan designated by the director
29 pursuant to section 20-371, subsection J.

30 9. "Uniform rate filing" means the rate filing that is made by the
31 designated rating organization and that includes all of the workers'
32 compensation rates to which insurers transacting workers' compensation
33 insurance in this state shall adhere except as provided in section 20-359,
34 ~~subsection~~ SUBSECTIONS A AND B. Uniform rate filing also includes the
35 expected loss ratios, ballast factors and other factors promulgated by the
36 designated rating organization for the uniform experience rating plan.

37 10. "Workers' compensation rates" means rates for workers'
38 compensation and employers' liability insurance incident to and written in
39 connection with workers' compensation.

40 Sec. 2. Section 20-359, Arizona Revised Statutes, is amended to
41 read:

42 20-359. Deviations from filed workers' compensation rates

43 A. Every insurer shall adhere to the filings made by the rating
44 organization of which it is a member, except that any member insurer may
45 file with the director:

1 1. Up to six uniform percentage deviations that decrease or
2 increase the statewide rate portion of the rating organization's rate
3 filing. If more than one deviation is filed by an insurer, each deviation
4 must be established consistent with the underwriting rules that are based
5 on criteria that would lead to a logical distinction of potential risk.

6 2. A subclassification rate related rule that deviates from the
7 rules or schedule rating plan filed by the insurer's rating organization.
8 An insurer shall not simultaneously apply a deviation and a schedule
9 rating to the same insured risk.

10 B. IN ADDITION TO THE SIX UNIFORM PERCENTAGE DEVIATIONS AUTHORIZED
11 UNDER SUBSECTION A, PARAGRAPH 1 OF THIS SECTION, INSURERS COVERING
12 FIREFIGHTERS AND FIRE INVESTIGATORS MAY FILE ONE UNIFORM PERCENTAGE
13 DEVIATION THAT INCREASES THE STATEWIDE RATES UNDER THE RATING
14 ORGANIZATION'S RATE FILING FOR THE CLASS CODES ASSOCIATED WITH
15 FIREFIGHTERS AND FIRE INVESTIGATORS TO ADDRESS THE ANTICIPATED INCREASE IN
16 LOSSES AND EXPENSES FOR CLAIMS THAT ARE COMPENSABLE PURSUANT TO SECTION
17 23-901.09. THE DEVIATION FILING SHALL BE ACCOMPANIED BY ANALYSIS FROM AN
18 ACTUARY THAT SUBSTANTIVELY ILLUSTRATES THE BASIS FOR THE RATE INCREASE,
19 INCLUDING INFORMATION MADE AVAILABLE BY THE INDUSTRIAL COMMISSION OF
20 ARIZONA PURSUANT TO SECTION 23-971 AND THE ANTICIPATED AND, WHEN
21 AVAILABLE, ACTUAL COMBINED LOSS RATIO, CLAIM FREQUENCY AND CLAIM SEVERITY
22 ASSOCIATED WITH THESE CLAIMS. THE SUPPORTING DOCUMENTATION SUBMITTED WITH
23 THE FILING MUST BE SUFFICIENT TO ALLOW THE DEPARTMENT TO ASSESS THE
24 REASONABLENESS OF THE INSURER'S ASSUMPTIONS AND JUSTIFICATION FOR THE
25 DEVIATION AND SHALL INCLUDE DATA RELATED TO WORKERS' COMPENSATION
26 INDEMNITY AND MEDICAL CLAIMS AND ADMINISTRATIVE EXPENSES ASSOCIATED
27 SPECIFICALLY WITH PRESUMPTIVE COVERAGE RELATED TO WORKERS' COMPENSATION
28 CLAIMS. THE INSURER MAY USE DATA OR ANALYSIS FROM ANY OF THE FOLLOWING
29 SOURCES:

- 30 1. THE INSURED OR INSURER.
- 31 2. SELF-FUNDED EMPLOYERS PROVIDING WORKERS' COMPENSATION.
- 32 3. THE INDUSTRIAL COMMISSION OF ARIZONA.
- 33 4. A RISK RETENTION POOL.
- 34 5. STUDIES AND INFORMATION ILLUSTRATING THE STATE AND NATIONAL
35 FREQUENCY OF CANCER AMONG FIREFIGHTERS AND FIRE INVESTIGATORS.
- 36 6. THE ASSIGNED RISK POOL OR ASSIGNED RISK.
- 37 7. CLAIMS AND EXPENSE DATA FROM OTHER RELEVANT LINES OF INSURANCE
38 SUCH AS LONG-TERM DISABILITY INSURANCE, GROUP OR INDIVIDUAL MAJOR MEDICAL
39 INSURANCE OR LONG-TERM CARE INSURANCE.
- 40 8. OTHER AVAILABLE CANCER-RELATED STATISTICS.
- 41 9. RELEVANT INCURRED BUT NOT REPORTED WORKERS' COMPENSATION CLAIMS
42 DATA.

43 C. THE DIRECTOR MAY USE INDEPENDENT CONTRACTOR EXAMINERS TO ANALYZE
44 THE SUPPORTING JUSTIFICATION OF A REQUESTED DEVIATION UNDER SUBSECTION B
45 OF THIS SECTION PURSUANT TO SECTION 20-358, SUBSECTION D.

1 D. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, IN
2 ADDITION TO THE DEVIATION FILING AUTHORIZED UNDER SUBSECTION B OF THIS
3 SECTION, INSURERS MAY FILE AND APPLY A SCHEDULE RATING PLAN TO ADJUST
4 PREMIUMS ASSOCIATED WITH FIREFIGHTERS AND FIRE INVESTIGATORS CLASS CODES,
5 BASED ON LOSS CONTROL PROGRAMS OR ACTIVITIES UNDERTAKEN BY THE INSURER TO
6 REDUCE LOSSES ASSOCIATED WITH SECTION 23-901.09. THE SCHEDULE RATING PLAN
7 MUST BE FILED WITH AND APPROVED BY THE DIRECTOR AND SHALL BE IN ADDITION
8 TO AND SEPARATE FROM ANY OTHER SCHEDULE RATING PLAN AVAILABLE TO THE
9 INSURER.

10 ~~B.~~ E. Each deviation filed shall be on file with the director for
11 a waiting period of at least thirty days before it becomes effective,
12 EXCEPT THAT A DEVIATION FILED PURSUANT TO SUBSECTION B OF THIS SECTION
13 SHALL BE ON FILE WITH THE DIRECTOR FOR AT LEAST SIXTY DAYS BEFORE IT
14 BECOMES EFFECTIVE. On written application by the insurer making the
15 filing, the director may authorize a filing to become effective before the
16 waiting period expires. A deviation that is filed pursuant to subsection
17 A, paragraph 1 of this section and that is not disapproved by the director
18 expires the following December 31 at midnight in this state unless the
19 director terminates the deviation sooner. A deviation that is filed
20 pursuant to subsection A, paragraph 2 of this section continues until the
21 insurer withdraws the deviation or the director determines that the
22 deviation no longer meets the standards prescribed in section 20-356,
23 paragraph 1. At any time the director may require an insurer to
24 actuarially support a deviation. The insurer that files the deviation
25 shall simultaneously send a copy of the filing to the rating organization
26 of which it is a member and to any designated rating organization.

27 ~~C.~~ F. A rating organization shall notify the director if the
28 organization disapproves any deviation relating to workers' compensation
29 insurance. The director shall notify the industrial commission OF ARIZONA
30 of the disapproval within ten days after receipt of the disapproval from
31 the rating organization.

32 Sec. 3. Section 20-371, Arizona Revised Statutes, is amended to
33 read:

34 20-371. Rate administration

35 A. The director shall adopt reasonable rules and statistical plans
36 that are reasonably adapted to each of the rating systems on file with the
37 director and that may be modified from time to time. An insurer shall use
38 the rules and statistical plans to record and report its loss and
39 countrywide expense experience in order that the experience of all
40 insurers may be made available, at least annually, in sufficient form and
41 detail to aid the director in determining whether rating systems comply
42 with the standards set forth in this article. The rules and plans may
43 also provide for the recording and reporting of expense experience items
44 ~~which~~ THAT are especially applicable to this state and THAT are not

1 susceptible to determination by prorating of countrywide expense
2 experience.

3 B. In adopting the rules and plans, the director shall give due
4 consideration to the rating systems on file with the director, and, in
5 order that the rules and plans may be as uniform as is practicable among
6 the several states, to the rules and to the form of plans used for
7 comparable rating systems in other states.

8 C. An insurer is not required to record or report its loss
9 experience on a classification basis that is inconsistent with the uniform
10 classification plan.

11 D. The director may designate an organization the director deems
12 qualified, other than an insurer that has outstanding obligations under a
13 policy of workers' compensation insurance in this state, to act as the
14 director's statistical agent. The statistical agent shall assist the
15 director in gathering and compiling workers' compensation experience and
16 performing other related services as the director may specify. The
17 compilations shall be made available subject to reasonable rules adopted
18 by the director, to insurers and rating organizations, but no insurer
19 shall be required to file its experience with an organization of which it
20 is not a member.

21 E. Every insurer shall report its loss and expense experience to
22 the rating organization of which it is a member. The rating organization
23 shall report the insurer's experience to the designated statistical agent.
24 If the rating organization is unable to report the experience of its
25 member insurers to the designated statistical agent, every insurer that is
26 a member of the rating organization shall directly report its experience
27 to the designated statistical agent.

28 F. If there is more than one licensed rating organization that
29 meets the requirements of section 20-363, subsection E, the director shall
30 designate one of the organizations as the designated rating organization
31 for the purpose of annually making and filing with the director statewide
32 workers' compensation insurance rates that become effective on January 1.

33 G. The designated rating organization shall annually file its rate
34 filing with the director on or before August 1 for rates that become
35 effective on January 1. The director shall disapprove the filing if it
36 does not meet the standards of section 20-356, paragraph 1. An insurer
37 transacting workers' compensation insurance in this state shall adhere to
38 the expected loss ratios, ballast factors and other experience rating
39 factors and to the statewide rates and other rating values made by the
40 designated rating organization for the uniform rate filing, except that an
41 insurer may deviate from the statewide rate portion of the uniform rate
42 filing according to section 20-359, ~~subsection~~ **SUBSECTIONS A AND B**.

43 H. The director may allow the designated statistical agent and
44 designated rating organization to charge licensed rating organizations

1 that operate in this state a reasonable fee for their services. The
2 licensed rating organizations shall pay the fees on a ratable basis.

3 I. To further the uniform administration of rate regulatory laws,
4 the director and every insurer and rating organization may exchange
5 information and experience data with insurance supervisory officials,
6 insurers and rating organizations in other states and may consult with
7 them with respect to rate making and the application of rating systems.

8 J. If more than one rating organization meets the requirements of
9 section 20-363, subsection E, the director shall designate the statistical
10 plan, classification plan or experience rating plan adopted by the
11 designated rating organization or any other rating organization, or the
12 plans of another state, as the uniform statistical plan, the uniform
13 classification plan or the uniform experience rating plan.

14 K. If the director does not designate a uniform statistical plan, a
15 uniform classification plan or a uniform experience rating plan pursuant
16 to this section, each insurer shall adhere to the statistical plan,
17 classification plan, and experience rating plan adopted by the rating
18 organization of which the insurer is a member in this state.

19 Sec. 4. Section 23-901, Arizona Revised Statutes, is amended to
20 read:

21 23-901. Definitions

22 In this chapter, unless the context otherwise requires:

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

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

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

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

33 5. "Compensation" means the compensation and benefits provided by
34 this chapter.

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

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

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

43 (i) Casual.

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

1 (c) Lessees of mining property and the lessees' employees and
2 contractors engaged in the performance of work that is a part of the
3 business conducted by the lessor and over which the lessor retains
4 supervision or control are within the meaning of this paragraph employees
5 of the lessor, and are deemed to be drawing wages as are usually paid
6 employees for similar work. The lessor may deduct from the proceeds of
7 ores mined by the lessees the premium required by this chapter to be paid
8 for such employees.

9 (d) Regular members of volunteer fire departments organized
10 pursuant to title 48, chapter 5, article 1, regular firefighters of any
11 volunteer fire department, including private fire protection service
12 organizations, organized pursuant to title 10, chapters 24 through 40,
13 volunteer firefighters serving as members of a fire department of any
14 incorporated city or town or an unincorporated area without pay or without
15 full pay and on a part-time basis, and voluntary policemen and volunteer
16 firefighters serving in any incorporated city, town or unincorporated area
17 without pay or without full pay and on a part-time basis, are deemed to be
18 employees, but for the purposes of this chapter, the basis for computing
19 wages for premium payments and compensation benefits for regular members
20 of volunteer fire departments organized pursuant to title 48, chapter 5,
21 article 1, or organized pursuant to title 10, chapters 24 through 40,
22 regular members of any private fire protection service organization,
23 volunteer firefighters and volunteer policemen of these departments or
24 organizations shall be the salary equal to the beginning salary of the
25 same rank or grade in the full-time service with the city, town, volunteer
26 fire department or private fire protection service organization, provided
27 if there is no full-time equivalent then the salary equivalent shall be as
28 determined by resolution of the governing body of the city, town or
29 volunteer fire department or corporation.

30 (e) Members of the department of public safety reserve, organized
31 pursuant to section 41-1715, are deemed to be employees. For the purposes
32 of this chapter, the basis for computing wages for premium payments and
33 compensation benefits for a member of the department of public safety
34 reserve who is a peace officer shall be the salary received by officers of
35 the department of public safety for the officers' first month of regular
36 duty as an officer. For members of the department of public safety
37 reserve who are not peace officers, the basis for computing premiums and
38 compensation benefits is \$400 a month.

39 (f) Any person placed in on-the-job evaluation or in on-the-job
40 training under the department of economic security's temporary assistance
41 for needy families program or vocational rehabilitation program shall be
42 deemed to be an employee of the department for the purpose of coverage
43 under the state workers' compensation laws only. The basis for computing
44 premium payments and compensation benefits shall be \$200 per month. Any
45 person receiving vocational rehabilitation services under the department

1 of economic security's vocational rehabilitation program whose major
2 evaluation or training activity is academic, whether as an enrolled
3 attending student or by correspondence, or who is confined to a hospital
4 or penal institution, shall not be deemed to be an employee of the
5 department for any purpose.

6 (g) Regular members of a volunteer sheriff's reserve, which may be
7 established by resolution of the county board of supervisors, to assist
8 the sheriff in the performance of the sheriff's official duties. A roster
9 of the current members shall monthly be certified to the clerk of the
10 board of supervisors by the sheriff and shall not exceed the maximum
11 number authorized by the board of supervisors. Certified members of an
12 authorized volunteer sheriff's reserve shall be deemed to be employees of
13 the county for the purpose of coverage under the Arizona workers'
14 compensation laws and occupational disease disability laws and shall be
15 entitled to receive the benefits of these laws for any compensable
16 injuries or disabling conditions that arise out of and occur in the course
17 of the performance of duties authorized and directed by the sheriff.
18 Compensation benefits and premium payments shall be based on the salary
19 received by a regular full-time deputy sheriff of the county involved for
20 the first month of regular patrol duty as an officer for each certified
21 member of a volunteer sheriff's reserve. This subdivision does not
22 provide compensation coverage for any member of a sheriff's posse who is
23 not a certified member of an authorized volunteer sheriff's reserve except
24 as a participant in a search and rescue mission or a search and rescue
25 training mission.

26 (h) A working member of a partnership may be deemed to be an
27 employee entitled to the benefits provided by this chapter on written
28 acceptance, by endorsement, at the discretion of the insurance carrier for
29 the partnership of an application for coverage by the working partner.
30 The basis for computing premium payments and compensation benefits for the
31 working partner shall be an assumed average monthly wage of not less than
32 \$600 ~~NOT~~ OR more than the maximum wage provided in section 23-1041 and is
33 subject to the discretionary approval of the insurance carrier. Any
34 compensation for permanent partial or permanent total disability payable
35 to the partner is computed on the lesser of the assumed monthly wage
36 agreed to by the insurance carrier on the acceptance of the application
37 for coverage or the actual average monthly wage received by the partner at
38 the time of injury.

39 (i) The sole proprietor of a business subject to this chapter may
40 be deemed to be an employee entitled to the benefits provided by this
41 chapter on written acceptance, by endorsement, at the discretion of the
42 insurance carrier of an application for coverage by the sole proprietor.
43 The basis for computing premium payments and compensation benefits for the
44 sole proprietor is an assumed average monthly wage of not less than \$600
45 ~~NOT~~ OR more than the maximum wage provided by section 23-1041 and is

1 subject to the discretionary approval of the insurance carrier. Any
2 compensation for permanent partial or permanent total disability payable
3 to the sole proprietor shall be computed on the lesser of the assumed
4 monthly wage agreed to by the insurance carrier on the acceptance of the
5 application for coverage or the actual average monthly wage received by
6 the sole proprietor at the time of injury.

7 (j) A member of the Arizona national guard, Arizona state guard or
8 unorganized militia shall be deemed a state employee and entitled to
9 coverage under the Arizona workers' compensation law at all times while
10 the member is receiving the payment of the member's military salary from
11 this state under competent military orders or on order of the governor.
12 Compensation benefits shall be based on the monthly military pay rate to
13 which the member is entitled at the time of injury, but not less than a
14 salary of \$400 per month, ~~not~~ OR more than the maximum provided by the
15 workers' compensation law. Arizona compensation benefits shall not inure
16 to a member compensable under federal law.

17 (k) Certified ambulance drivers and attendants who serve without
18 pay or without full pay on a part-time basis are deemed to be employees
19 and entitled to the benefits provided by this chapter and the basis for
20 computing wages for premium payments and compensation benefits for
21 certified ambulance personnel shall be \$400 per month.

22 (l) Volunteer workers of a licensed health care institution may be
23 deemed to be employees and entitled to the benefits provided by this
24 chapter on written acceptance by the insurance carrier of an application
25 by the health care institution for coverage of such volunteers. The basis
26 for computing wages for premium payments and compensation benefits for
27 volunteers shall be \$400 per month.

28 (m) Personnel who participate in a search or rescue operation or a
29 search or rescue training operation that carries a mission identifier
30 assigned by the division of emergency management as provided in section
31 35-192.01 and who serve without compensation as volunteer state employees.
32 The basis for computation of wages for premium purposes and compensation
33 benefits is the total volunteer man-hours recorded by the division of
34 emergency management in a given quarter multiplied by the amount
35 determined by the appropriate risk management formula.

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

1 (o) Regular members of the Arizona game and fish department
2 reserve, organized pursuant to section 17-214. The basis for computing
3 wages for premium payments and compensation benefits for a member of the
4 reserve is the salary received by game rangers and wildlife managers of
5 the Arizona game and fish department for the game rangers' and wildlife
6 managers' first month of regular duty.

7 (p) Every person employed pursuant to a professional employer
8 agreement.

9 (q) A working member of a limited liability company who owns less
10 than fifty percent of the membership interest in the limited liability
11 company.

12 (r) A working member of a limited liability company who owns fifty
13 percent or more of the membership interest in the limited liability
14 company may be deemed to be an employee entitled to the benefits provided
15 by this chapter on the written acceptance, by endorsement, of an
16 application for coverage by the working member at the discretion of the
17 insurance carrier for the limited liability company. The basis for
18 computing wages for premium payments and compensation benefits for the
19 working member is an assumed average monthly wage of \$600 or more but not
20 more than the maximum wage provided in section 23-1041 and is subject to
21 the discretionary approval of the insurance carrier. Any compensation for
22 permanent partial or permanent total disability payable to the working
23 member is computed on the lesser of the assumed monthly wage agreed to by
24 the insurance carrier on the acceptance of the application for coverage or
25 the actual average monthly wage received by the working member at the time
26 of injury.

27 (s) A working shareholder of a corporation who owns less than fifty
28 percent of the beneficial interest in the corporation.

29 (t) A working shareholder of a corporation who owns fifty percent
30 or more of the beneficial interest in the corporation may be deemed to be
31 an employee entitled to the benefits provided by this chapter on the
32 written acceptance, by endorsement, of an application for coverage by the
33 working shareholder at the discretion of the insurance carrier for the
34 corporation. The basis for computing wages for premium payments and
35 compensation benefits for the working shareholder is an assumed average
36 monthly wage of \$600 or more but not more than the maximum wage provided
37 in section 23-1041 and is subject to the discretionary approval of the
38 insurance carrier. Any compensation for permanent partial or permanent
39 total disability payable to the working shareholder is computed on the
40 lesser of the assumed monthly wage agreed to by the insurance carrier on
41 the acceptance of the application for coverage or the actual average
42 monthly wage received by the working shareholder at the time of injury.

43 7. "General order" means an order applied generally throughout this
44 state to all persons under jurisdiction of the commission.

1 8. "Heart-related or perivascular injury, illness or death" means
2 myocardial infarction, coronary thrombosis or any other similar sudden,
3 violent or acute process involving the heart or perivascular system, or
4 any death resulting therefrom, and any weakness, disease or other
5 condition of the heart or perivascular system, or any death resulting
6 therefrom.

7 9. "Insurance carrier" means every insurance carrier duly
8 authorized by the director of the department of insurance and financial
9 institutions to write workers' compensation or occupational disease
10 compensation insurance in this state.

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

14 11. "Mental injury, illness or condition" means any mental,
15 emotional, psychotic or neurotic injury, illness or condition.

16 12. "Order" means and includes any rule, direction, requirement,
17 standard, determination or decision other than an award or a directive by
18 the commission or an administrative law judge relative to any entitlement
19 to compensation benefits, or to the amount of compensation benefits, and
20 any procedural ruling relative to the processing or adjudicating of a
21 compensation matter.

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

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

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

29 (c) An occupational disease that is due to causes and conditions
30 characteristic of and peculiar to a particular trade, occupation, process
31 or employment, and not the ordinary diseases to which the general public
32 is exposed, and subject to section 23-901.01 [OR 23-901.09](#) or, for
33 heart-related, perivascular or pulmonary cases, section 23-1105.

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

36 (a) In which the professional employer organization expressly
37 agrees to co-employ all or a majority of the employees providing services
38 for the client. In determining whether the professional employer
39 organization employs all or a majority of the employees of a client, any
40 person employed pursuant to the terms of the professional employer
41 agreement after the initial placement of client employees on the payroll
42 of the professional employer organization shall be included.

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

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

4 15. "Professional employer organization" means any person engaged
5 in the business of providing professional employer services. Professional
6 employer organization does not include a temporary help firm or an
7 employment agency.

8 16. "Professional employer services" means the service of entering
9 into co-employment relationships under this chapter to which all or a
10 majority of the employees providing services to a client or to a division
11 or work unit of a client are covered employees.

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

13 18. "Weakness, disease or other condition of the heart or
14 perivascular system" means arteriosclerotic heart disease, cerebral
15 vascular disease, peripheral vascular disease, cardiovascular disease,
16 angina pectoris, congestive heart trouble, coronary insufficiency,
17 ischemia and all other similar weaknesses, diseases and conditions, and
18 also previous episodes or instances of myocardial infarction, coronary
19 thrombosis or any similar sudden, violent or acute process involving the
20 heart or perivascular system.

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

23 Sec. 5. Section 23-901.01, Arizona Revised Statutes, is amended to
24 read:

25 23-901.01. Occupational disease; proximate causation;
26 definition

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

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

32 2. The disease can be seen to have followed as a natural incident
33 of the work as a result of the exposure occasioned by the nature of the
34 employment.

35 3. The disease can be fairly traced to the employment as the
36 proximate cause.

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

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

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

1 B. Notwithstanding subsection A of this section and section
2 23-1043.01, ~~1.~~

3 ~~1.~~ any disease, infirmity or impairment of a ~~firefighter's or~~ peace
4 officer's health that is caused by brain, bladder, rectal or colon cancer,
5 lymphoma, leukemia or adenocarcinoma or mesothelioma of the respiratory
6 tract and that results in disability or death is presumed to be an
7 occupational disease as defined in section 23-901, paragraph 13,
8 subdivision (c) and is deemed to arise out of employment.

9 ~~2. Any disease, infirmity or impairment of a firefighter's health~~
10 ~~that is caused by buccal cavity and pharynx, esophagus, large intestine,~~
11 ~~lung, kidney, prostate, skin, stomach or testicular cancer or~~
12 ~~non-Hodgkin's lymphoma, multiple myeloma or malignant melanoma and that~~
13 ~~results in disability or death is presumed to be an occupational disease~~
14 ~~as defined in section 23-901, paragraph 13, subdivision (c) and is deemed~~
15 ~~to arise out of employment.~~

16 C. The ~~presumptions~~ PRESUMPTION provided in subsection B of this
17 section ~~are~~ IS granted if all of the following apply:

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

20 2. The ~~firefighter or~~ peace officer was assigned to hazardous duty
21 for at least five years.

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

26 ~~4. For the presumption provided in subsection B, paragraph 2 of~~
27 ~~this section, the firefighter received a physical examination that is~~
28 ~~reasonably aligned with the national fire protection association standard~~
29 ~~on comprehensive occupational medical program for fire departments~~
30 ~~(NFPA 1582).~~

31 D. Subsection B of this section applies to BOTH OF THE FOLLOWING:

32 1. PEACE OFFICERS CURRENTLY IN SERVICE.

33 2. Former ~~firefighters or~~ peace officers who are sixty-five years
34 of age or younger and who are diagnosed with a cancer that is listed in
35 subsection B of this section not more than fifteen years after the
36 ~~firefighter's or~~ peace officer's last date of employment as a ~~firefighter~~
37 ~~or~~ peace officer.

38 E. Subsection B of this section does not apply to cancers of the
39 respiratory tract if there is evidence that the ~~firefighter's or~~ peace
40 officer's exposure to cigarettes or tobacco products outside of the scope
41 of the ~~firefighter's or~~ peace officer's official duties is a substantial
42 contributing cause in the development of the cancer.

43 F. The ~~presumptions~~ PRESUMPTION provided in subsection B of this
44 section may be rebutted by ~~a preponderance of the~~ CLEAR AND CONVINCING
45 evidence that there is a specific cause of the cancer other than an

1 occupational exposure to a carcinogen as defined by the international
2 agency for research on cancer.

3 G. For the purposes of this section, ~~1.~~

4 ~~1. "Firefighter" means a full-time firefighter who was regularly~~
5 ~~assigned to hazardous duty.~~

6 ~~2.~~ "peace officer" means a full-time peace officer who was
7 regularly assigned to hazardous duty as a part of a special operations,
8 special weapons and tactics, explosive ordinance disposal or hazardous
9 materials response unit.

10 Sec. 6. Title 23, chapter 6, article 1, Arizona Revised Statutes,
11 is amended by adding section 23-901.09, to read:

12 23-901.09. Presumption; cancers; firefighters and fire
13 investigators; applicability; definitions

14 A. NOTWITHSTANDING SECTION 23-901.01, SUBSECTION A AND SECTION
15 23-1043.01:

16 1. ANY DISEASE, INFIRMITY OR IMPAIRMENT OF A FIREFIGHTER'S OR FIRE
17 INVESTIGATOR'S HEALTH THAT IS CAUSED BY BRAIN, BLADDER, RECTAL OR COLON
18 CANCER, LYMPHOMA, LEUKEMIA OR ADENOCARCINOMA OR MESOTHELIOMA OF THE
19 RESPIRATORY TRACT AND THAT RESULTS IN DISABILITY OR DEATH IS PRESUMED TO
20 BE AN OCCUPATIONAL DISEASE AS DEFINED IN SECTION 23-901, PARAGRAPH 13,
21 SUBDIVISION (c) AND IS DEEMED TO ARISE OUT OF EMPLOYMENT.

22 2. ANY DISEASE, INFIRMITY OR IMPAIRMENT OF A FIREFIGHTER'S OR FIRE
23 INVESTIGATOR'S HEALTH THAT IS CAUSED BY BUCCAL CAVITY, PHARYNX, ESOPHAGUS,
24 LARGE INTESTINE, LUNG, KIDNEY, PROSTATE, SKIN, STOMACH, OVARIAN, BREAST OR
25 TESTICULAR CANCER OR NON-HODGKIN'S LYMPHOMA, MULTIPLE MYELOMA OR MALIGNANT
26 MELANOMA AND THAT RESULTS IN DISABILITY OR DEATH IS PRESUMED TO BE AN
27 OCCUPATIONAL DISEASE AS DEFINED IN SECTION 23-901, PARAGRAPH 13,
28 SUBDIVISION (c) AND IS DEEMED TO ARISE OUT OF EMPLOYMENT.

29 B. THE PRESUMPTIONS PROVIDED IN SUBSECTION A OF THIS SECTION ARE
30 GRANTED IF ALL OF THE FOLLOWING APPLY:

31 1. THE FIREFIGHTER OR FIRE INVESTIGATOR PASSED A PHYSICAL
32 EXAMINATION BEFORE EMPLOYMENT AND THE EXAMINATION DID NOT INDICATE
33 EVIDENCE OF CANCER.

34 2. THE FIREFIGHTER OR FIRE INVESTIGATOR WAS ASSIGNED TO HAZARDOUS
35 DUTY FOR AT LEAST FIVE YEARS.

36 3. FOR THE PRESUMPTION PROVIDED IN SUBSECTION A, PARAGRAPH 2 OF
37 THIS SECTION AND FOR FIREFIGHTERS ONLY, THE FIREFIGHTER RECEIVED A
38 PHYSICAL EXAMINATION THAT IS REASONABLY ALIGNED WITH THE NATIONAL FIRE
39 PROTECTION ASSOCIATION STANDARD ON COMPREHENSIVE OCCUPATIONAL MEDICAL
40 PROGRAM FOR FIRE DEPARTMENTS (NFPA 1582).

41 C. SUBSECTION A OF THIS SECTION APPLIES TO BOTH OF THE FOLLOWING:

42 1. FIREFIGHTERS OR FIRE INVESTIGATORS CURRENTLY IN SERVICE.

43 2. FORMER FIREFIGHTERS OR FIRE INVESTIGATORS WHO ARE SIXTY-FIVE
44 YEARS OF AGE OR YOUNGER AND WHO ARE DIAGNOSED WITH A CANCER THAT IS LISTED
45 IN SUBSECTION A OF THIS SECTION NOT MORE THAN FIFTEEN YEARS AFTER THE

1 FIREFIGHTER'S OR FIRE INVESTIGATOR'S LAST DATE OF EMPLOYMENT AS A
2 FIREFIGHTER OR FIRE INVESTIGATOR.

3 D. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO CANCERS OF THE
4 RESPIRATORY TRACT IF THERE IS EVIDENCE THAT THE FIREFIGHTER'S OR FIRE
5 INVESTIGATOR'S EXPOSURE TO CIGARETTES OR TOBACCO PRODUCTS OUTSIDE OF THE
6 SCOPE OF THE FIREFIGHTER'S OR FIRE INVESTIGATOR'S OFFICIAL DUTIES IS A
7 SUBSTANTIAL CONTRIBUTING CAUSE IN THE DEVELOPMENT OF THE CANCER.

8 E. THE PRESUMPTION PROVIDED IN SUBSECTION A OF THIS SECTION MAY BE
9 REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT THERE IS A SPECIFIC CAUSE
10 OF THE CANCER OTHER THAN AN OCCUPATIONAL EXPOSURE TO A CARCINOGEN AS
11 DEFINED BY THE INTERNATIONAL AGENCY FOR RESEARCH ON CANCER.

12 F. FOR THE PURPOSES OF THIS SECTION:

13 1. "FIREFIGHTER" MEANS A FULL-TIME FIREFIGHTER WHO WAS REGULARLY
14 ASSIGNED TO HAZARDOUS DUTY.

15 2. "FIRE INVESTIGATOR" MEANS A PERSON WHO IS EMPLOYED FULL-TIME BY
16 A MUNICIPALITY OR FIRE DISTRICT AND WHO IS TRAINED IN THE PROCESS OF AND
17 RESPONSIBLE FOR DETERMINING THE ORIGIN, CAUSE AND DEVELOPMENT OF A FIRE OR
18 EXPLOSION.

19 Sec. 7. Title 23, chapter 6, article 4, Arizona Revised Statutes,
20 is amended by adding section 23-971, to read:

21 23-971. Firefighter and fire investigator cancer claim
22 information; data sharing; definitions

23 A. ALL INSURANCE CARRIERS, SELF-INSURING EMPLOYERS AND WORKERS'
24 COMPENSATION POOLS SECURING WORKERS' COMPENSATION FOR FIREFIGHTERS AND
25 FIRE INVESTIGATORS PURSUANT TO THIS CHAPTER SHALL COMPILE AND REPORT TO
26 THE COMMISSION CLAIM AND CLAIM RESERVE INFORMATION FOR ALL CANCER-RELATED
27 CLAIMS FILED BY OR ON BEHALF OF FIREFIGHTERS AND FIRE INVESTIGATORS.

28 B. THE INFORMATION REQUIRED BY SUBSECTION A OF THIS SECTION SHALL
29 INCLUDE ALL OF THE FOLLOWING:

30 1. THE TYPE OF CANCER.

31 2. THE TOTAL CLAIM COSTS.

32 3. THE CLAIM RESERVED BY THE INSURANCE CARRIER, SELF-INSURING
33 EMPLOYER OR WORKERS' COMPENSATION POOL.

34 4. ANY OTHER INFORMATION REQUESTED BY THE COMMISSION.

35 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE
36 COMMISSION MAY NOT REQUIRE OR OBTAIN ANY PERSONALLY IDENTIFIABLE
37 INFORMATION FOR ANY CLAIMANT.

38 D. THE COMMISSION SHALL COMPILE AND MAKE AVAILABLE TO INSURANCE
39 CARRIERS, RATING ORGANIZATIONS, EMPLOYERS, PUBLIC SAFETY WORKERS AND
40 WORKERS' COMPENSATION POOLS THE CLAIM-RELATED INFORMATION COLLECTED
41 PURSUANT TO THIS SECTION TO ASSIST WITH THE SETTING OF WORKERS'
42 COMPENSATION INSURANCE RATES AND TO ENSURE THE ADEQUATE RESERVING FOR
43 CANCER CLAIMS FOR THE CLASS CODES ASSOCIATED WITH FIREFIGHTERS AND FIRE
44 INVESTIGATORS.

1 E. FOR THE PURPOSES OF THIS SECTION, "FIREFIGHTER" AND "FIRE
2 INVESTIGATOR" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 23-901.09.

3 Sec. 8. Legislative intent

4 The Legislature intends that section 20-359, Arizona Revised
5 Statutes, as amended by this act, authorize workers' compensation insurers
6 covering firefighters and fire investigators to modify previously filed
7 premium rates to cover anticipated increased claims costs resulting from
8 the new coverages to be afforded those insureds pursuant to section
9 23-901.09, Arizona Revised Statutes, as added by this act, with rate
10 adjustments to be effective from and after June 30, 2021.