

Committee Substitute for Senate Bill No. 746

An act relating to workers' compensation for first responders; creating s. 112.1815, F.S.; providing a definition of the term "first responder"; providing a standard of proof for first responders having an injury or disease caused by exposure to a toxic substance; providing that any adverse result or complication relating to smallpox vaccinations is an injury by accident arising out of employment for first responders; providing a standard of proof for first responders in cases involving occupational disease; providing for the continuation of permanent total supplemental benefits after the age of 62 for certain first responders; providing a definition of the term "occupational disease"; providing that the act fulfills an important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 112.1815, Florida Statutes, is created to read:

112.1815 Firefighters, paramedics, emergency medical technicians, and law enforcement officers; special provisions for employment-related accidents and injuries.—

(1) The term "first responder" as used in this section means a law enforcement officer as defined in s. 943.10, a firefighter as defined in s. 633.30, or an emergency medical technician or paramedic as defined in s. 401.23 employed by state or local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

(2)(a) For the purpose of determining benefits under this section relating to employment-related accidents and injuries of first responders, the following shall apply:

1. An injury or disease caused by the exposure to a toxic substance is not an injury by accident arising out of employment unless there is a preponderance of the evidence establishing that exposure to the specific substance involved, at the levels to which the first responder was exposed, can cause the injury or disease sustained by the employee.

2. Any adverse result or complication caused by a smallpox vaccination of a first responder is deemed to be an injury by accident arising out of work performed in the course and scope of employment.

3. A mental or nervous injury involving a first responder and occurring as a manifestation of a compensable injury must be demonstrated by clear and convincing evidence. For a mental or nervous injury arising out of the employment unaccompanied by a physical injury involving a first responder, only medical benefits under s. 440.13 shall be payable for the mental or nervous injury. However, payment of indemnity as provided in s. 440.15 may

not be made unless a physical injury arising out of injury as a first responder accompanies the mental or nervous injury. Benefits for a first responder are not subject to any limitation on temporary benefits under s. 440.093 or the 1-percent limitation on permanent psychiatric impairment benefits under s. 440.15(3)(c).

(b) In cases involving occupational disease, both causation and sufficient exposure to a specific harmful substance shown to be present in the workplace to support causation shall be proven by a preponderance of the evidence.

(3) Permanent total supplemental benefits received by a first responder whose employer does not participate in the social security program shall not terminate after the first responder attains the age of 62.

(4) For the purposes of this section, the term "occupational disease" means only a disease that arises out of employment as a first responder and is due to causes and conditions that are characteristic of and peculiar to a particular trade, occupation, process, or employment and excludes all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than for the general public.

Section 2. The Legislature finds that this act fulfills an important state interest relating to the public interest in prompt and adequate response to provide for the safety of the public unique to this class of state and local government employees.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 8, 2007.

Filed in Office Secretary of State June 8, 2007.