

SENATE BILL NO. 153—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

FEBRUARY 16, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to occupational diseases.
(BDR 53-635)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to occupational diseases; revising the circumstances under which certain occupational diseases are conclusively presumed to arise out of and in the course of employment; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that certain diseases of the lungs or heart contracted by
2 certain police officers, firefighters or other employees are, for purposes of industrial
3 insurance claims, conclusively presumed to be occupationally related if the
4 employee has served a certain number of years in the profession before contracting
5 the disease. (NRS 617.455, 617.457) **Sections 2 and 3** of this bill limit the period in
6 which certain employees may claim these presumptions. **Sections 2.5 and 3.5** of
7 this bill prevent certain persons who use tobacco products or fail to follow a
8 physician’s prescribed plan of care from claiming these presumptions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** (Deleted by amendment.)
2 **Sec. 1.5.** NRS 617.454 is hereby amended to read as follows:
3 617.454 1. Any physical examination administered pursuant
4 to NRS 617.455 or 617.457 must include:
5 (a) A thorough test of the functioning of the hearing of the
6 employee; and



1 (b) A purified protein derivative skin test to screen for exposure
2 to tuberculosis.

3 2. Except as otherwise provided in subsection ~~77~~ 8 of NRS
4 617.457, the tests required by this section must be paid for by the
5 employer.

6 **Sec. 2.** NRS 617.455 is hereby amended to read as follows:

7 617.455 1. Notwithstanding any other provision of this
8 chapter, diseases of the lungs, resulting in either temporary or
9 permanent disability or death, are occupational diseases and
10 compensable as such under the provisions of this chapter if caused
11 by exposure to heat, smoke, fumes, tear gas or any other noxious
12 gases, arising out of and in the course of the employment of a
13 person who, for 2 years or more, has been:

14 (a) Employed in this State in a full-time salaried occupation of
15 fire fighting or the investigation of arson for the benefit or safety of
16 the public;

17 (b) Acting as a volunteer firefighter in this State and is entitled
18 to the benefits of chapters 616A to 616D, inclusive, of NRS
19 pursuant to the provisions of NRS 616A.145; or

20 (c) Employed in a full-time salaried occupation as a police
21 officer in this State.

22 2. Except as otherwise provided in subsection 3, each
23 employee who is to be covered for diseases of the lungs pursuant to
24 the provisions of this section shall submit to a physical examination,
25 including a thorough test of the functioning of his or her lungs and
26 the making of an X-ray film of the employee's lungs, upon
27 employment, upon commencement of the coverage, once every 2
28 years until the employee is 40 years of age or older and thereafter on
29 an annual basis during his or her employment.

30 3. Each volunteer firefighter who is to be covered for diseases
31 of the lungs pursuant to the provisions of this section shall submit
32 to:

33 (a) A physical examination upon employment and upon
34 commencement of the coverage; and

35 (b) The making of an X-ray film of the volunteer firefighter's
36 lungs once every 3 years after the physical examination that is
37 required upon commencement of the coverage,

38 until the volunteer firefighter reaches the age of 50 years. Each
39 volunteer firefighter who is 50 years of age or older shall submit to a
40 physical examination once every 2 years during his or her
41 employment. As used in this subsection, "physical examination"
42 includes the making of an X-ray film of the volunteer firefighter's
43 lungs but excludes a thorough test of the functioning of his or her
44 lungs.



1 4. All physical examinations required pursuant to subsections 2
2 and 3 must be paid for by the employer.

3 5. A disease of the lungs is conclusively presumed to have
4 arisen out of and in the course of the employment of a person who
5 has been employed in a full-time continuous, uninterrupted and
6 salaried occupation as a police officer, firefighter or arson
7 investigator for ~~15~~ 2 years or more before the date of disablement

8 ***if the disease is diagnosed and causes the disablement:***

9 ***(a) During the course of that employment;***

10 ***(b) If the person ceases employment before completing 20***
11 ***years of service as a police officer, firefighter or arson***
12 ***investigator, during the period after separation from employment***
13 ***which is equal to the number of years worked; or***

14 ***(c) If the person ceases employment after completing 20 years***
15 ***or more of service as a police officer, firefighter or arson***
16 ***investigator, at any time during the person's life.***

17 ***↪ Service credit which is purchased in a retirement system must***
18 ***not be calculated towards the years of service of a person for the***
19 ***purposes of this section.***

20 6. Failure to correct predisposing conditions which lead to lung
21 disease when so ordered in writing by the examining physician after
22 a physical examination required pursuant to subsection 2 or 3
23 excludes the employee from the benefits of this section if the
24 correction is within the ability of the employee.

25 7. A person who is determined to be:

26 (a) Partially disabled from an occupational disease pursuant to
27 the provisions of this section; and

28 (b) Incapable of performing, with or without remuneration, work
29 as a firefighter, police officer or arson investigator,

30 ***↪ may elect to receive the benefits provided under NRS 616C.440***
31 ***for a permanent total disability.***

32 **Sec. 2.5.** NRS 617.455 is hereby amended to read as follows:

33 617.455 1. Notwithstanding any other provision of this
34 chapter, diseases of the lungs, resulting in either temporary or
35 permanent disability or death, are occupational diseases and
36 compensable as such under the provisions of this chapter if caused
37 by exposure to heat, smoke, fumes, tear gas or any other noxious
38 gases, arising out of and in the course of the employment of a
39 person who, for 2 years or more, has been:

40 (a) Employed in this State in a full-time salaried occupation of
41 fire fighting or the investigation of arson for the benefit or safety of
42 the public;

43 (b) Acting as a volunteer firefighter in this State and is entitled
44 to the benefits of chapters 616A to 616D, inclusive, of NRS
45 pursuant to the provisions of NRS 616A.145; or



1 (c) Employed in a full-time salaried occupation as a police
2 officer in this State.

3 2. Except as otherwise provided in subsection 3, each
4 employee who is to be covered for diseases of the lungs pursuant to
5 the provisions of this section shall submit to a physical examination,
6 including a thorough test of the functioning of his or her lungs and
7 the making of an X-ray film of the employee's lungs, upon
8 employment, upon commencement of the coverage, once every 2
9 years until the employee is 40 years of age or older and thereafter on
10 an annual basis during his or her employment.

11 3. Each volunteer firefighter who is to be covered for diseases
12 of the lungs pursuant to the provisions of this section shall submit
13 to:

14 (a) A physical examination upon employment and upon
15 commencement of the coverage; and

16 (b) The making of an X-ray film of the volunteer firefighter's
17 lungs once every 3 years after the physical examination that is
18 required upon commencement of the coverage,

19 ↪ until the volunteer firefighter reaches the age of 50 years. Each
20 volunteer firefighter who is 50 years of age or older shall submit to a
21 physical examination once every 2 years during his or her
22 employment. As used in this subsection, "physical examination"
23 includes the making of an X-ray film of the volunteer firefighter's
24 lungs but excludes a thorough test of the functioning of his or her
25 lungs.

26 4. All physical examinations required pursuant to subsections 2
27 and 3 must be paid for by the employer.

28 5. A disease of the lungs is conclusively presumed to have
29 arisen out of and in the course of the employment of a person who
30 has been employed in a full-time continuous, uninterrupted and
31 salaried occupation as a police officer, firefighter or arson
32 investigator for 2 years or more before the date of disablement if the
33 disease is diagnosed and causes the disablement:

34 (a) During the course of that employment;

35 (b) If the person ceases employment before completing 20 years
36 of service as a police officer, firefighter or arson investigator, during
37 the period after separation from employment which is equal to the
38 number of years worked; or

39 (c) If the person ceases employment after completing 20 years
40 or more of service as a police officer, firefighter or arson
41 investigator, at any time during the person's life.

42 ↪ Service credit which is purchased in a retirement system must not
43 be calculated towards the years of service of a person for the
44 purposes of this section.



1 6. *Frequent or regular use of a tobacco product within 1*
2 *year, or a material departure from a physician's prescribed plan of*
3 *care by a person within 3 months, immediately preceding the filing*
4 *of a claim for compensation excludes a person who has separated*
5 *from service from the benefit of the conclusive presumption*
6 *provided in subsection 5.*

7 7. Failure to correct predisposing conditions which lead to lung
8 disease when so ordered in writing by the examining physician after
9 a physical examination required pursuant to subsection 2 or 3
10 excludes the employee from the benefits of this section if the
11 correction is within the ability of the employee.

12 ~~7-1~~ 8. A person who is determined to be:

13 (a) Partially disabled from an occupational disease pursuant to
14 the provisions of this section; and

15 (b) Incapable of performing, with or without remuneration, work
16 as a firefighter, police officer or arson investigator,

17 ↪ may elect to receive the benefits provided under NRS 616C.440
18 for a permanent total disability.

19 **Sec. 3.** NRS 617.457 is hereby amended to read as follows:

20 617.457 1. Notwithstanding any other provision of this
21 chapter, diseases of the heart of a person who, for ~~1-1~~ 2 years or
22 more, has been employed in a full-time continuous, uninterrupted
23 and salaried occupation as a firefighter, arson investigator or police
24 officer in this State before the date of disablement are conclusively
25 presumed to have arisen out of and in the course of the employment

26 ~~1-1~~ *if the disease is diagnosed and causes the disablement:*

27 (a) *During the course of that employment;*

28 (b) *If the person ceases employment before completing 20*
29 *years of service as a police officer, firefighter or arson*
30 *investigator, during the period after separation from employment*
31 *which is equal to the number of years worked; or*

32 (c) *If the person ceases employment after completing 20 years*
33 *or more of service as a police officer, firefighter or arson*
34 *investigator, at any time during the person's life.*

35 ↪ *Service credit which is purchased in a retirement system must*
36 *not be calculated towards the years of service of a person for the*
37 *purposes of this section.*

38 2. Notwithstanding any other provision of this chapter, diseases
39 of the heart, resulting in either temporary or permanent disability or
40 death, are occupational diseases and compensable as such under the
41 provisions of this chapter if caused by extreme overexertion in times
42 of stress or danger and a causal relationship can be shown by
43 competent evidence that the disability or death arose out of and was
44 caused by the performance of duties as a volunteer firefighter by a
45 person entitled to the benefits of chapters 616A to 616D, inclusive,



1 of NRS pursuant to the provisions of NRS 616A.145 and who, for 5
2 years or more, has served continuously as a volunteer firefighter in
3 this State by continuously maintaining an active status on the roster
4 of a volunteer fire department.

5 3. Except as otherwise provided in subsection 4, each
6 employee who is to be covered for diseases of the heart pursuant to
7 the provisions of this section shall submit to a physical examination,
8 including an examination of the heart, upon employment, upon
9 commencement of coverage and thereafter on an annual basis during
10 his or her employment.

11 4. During the period in which a volunteer firefighter is
12 continuously on active status on the roster of a volunteer fire
13 department, a physical examination for the volunteer firefighter is
14 required:

15 (a) Upon employment;

16 (b) Upon commencement of coverage; and

17 (c) Once every 3 years after the physical examination that is
18 required pursuant to paragraph (b),

19 ↪ until the firefighter reaches the age of 50 years. Each volunteer
20 firefighter who is 50 years of age or older shall submit to a physical
21 examination once every 2 years during his or her employment.

22 5. The employer of the volunteer firefighter is responsible for
23 scheduling the physical examination. The employer shall mail to the
24 volunteer firefighter a written notice of the date, time and place of
25 the physical examination at least 10 days before the date of the
26 physical examination and shall obtain, at the time of mailing, a
27 certificate of mailing issued by the United States Postal Service.

28 6. Failure to submit to a physical examination that is scheduled
29 by his or her employer pursuant to subsection 5 excludes the
30 volunteer firefighter from the benefits of this section.

31 7. The chief of a volunteer fire department may require an
32 applicant to pay for any physical examination required pursuant to
33 this section if the applicant:

34 (a) Applies to the department for the first time as a volunteer
35 firefighter; and

36 (b) Is 50 years of age or older on the date of his or her
37 application.

38 8. The volunteer fire department shall reimburse an applicant
39 for the cost of a physical examination required pursuant to this
40 section if the applicant:

41 (a) Paid for the physical examination in accordance with
42 subsection 7;

43 (b) Is declared physically fit to perform the duties required of a
44 firefighter; and

45 (c) Becomes a volunteer with the volunteer fire department.



1 9. Except as otherwise provided in subsection 7, all physical
2 examinations required pursuant to subsections 3 and 4 must be paid
3 for by the employer.

4 10. Failure to correct predisposing conditions which lead to
5 heart disease when so ordered in writing by the examining physician
6 subsequent to a physical examination required pursuant to
7 subsection 3 or 4 excludes the employee from the benefits of this
8 section if the correction is within the ability of the employee.

9 11. A person who is determined to be:

10 (a) Partially disabled from an occupational disease pursuant to
11 the provisions of this section; and

12 (b) Incapable of performing, with or without remuneration, work
13 as a firefighter, arson investigator or police officer,

14 ➔ may elect to receive the benefits provided under NRS 616C.440
15 for a permanent total disability.

16 12. Claims filed under this section may be reopened at any
17 time during the life of the claimant for further examination and
18 treatment of the claimant upon certification by a physician of a
19 change of circumstances related to the occupational disease which
20 would warrant an increase or rearrangement of compensation.

21 **Sec. 3.5.** NRS 617.457 is hereby amended to read as follows:

22 617.457 1. Notwithstanding any other provision of this
23 chapter, diseases of the heart of a person who, for 2 years or more,
24 has been employed in a full-time continuous, uninterrupted and
25 salaried occupation as a firefighter, arson investigator or police
26 officer in this State before the date of disablement are conclusively
27 presumed to have arisen out of and in the course of the employment
28 if the disease is diagnosed and causes the disablement:

29 (a) During the course of that employment;

30 (b) If the person ceases employment before completing 20 years
31 of service as a police officer, firefighter or arson investigator, during
32 the period after separation from employment which is equal to the
33 number of years worked; or

34 (c) If the person ceases employment after completing 20 years
35 or more of service as a police officer, firefighter or arson
36 investigator, at any time during the person's life.

37 ➔ Service credit which is purchased in a retirement system must not
38 be calculated towards the years of service of a person for the
39 purposes of this section.

40 2. *Frequent or regular use of a tobacco product within 1*
41 *year, or a material departure from a physician's prescribed plan of*
42 *care by a person within 3 months, immediately preceding the filing*
43 *of a claim for compensation excludes a person who has separated*
44 *from service from the benefit of the conclusive presumption*
45 *provided in subsection 1.*



1 **3.** Notwithstanding any other provision of this chapter, diseases
2 of the heart, resulting in either temporary or permanent disability or
3 death, are occupational diseases and compensable as such under the
4 provisions of this chapter if caused by extreme overexertion in times
5 of stress or danger and a causal relationship can be shown by
6 competent evidence that the disability or death arose out of and was
7 caused by the performance of duties as a volunteer firefighter by a
8 person entitled to the benefits of chapters 616A to 616D, inclusive,
9 of NRS pursuant to the provisions of NRS 616A.145 and who, for 5
10 years or more, has served continuously as a volunteer firefighter in
11 this State by continuously maintaining an active status on the roster
12 of a volunteer fire department.

13 ~~13~~ **4.** Except as otherwise provided in subsection ~~4~~ **5**, each
14 employee who is to be covered for diseases of the heart pursuant to
15 the provisions of this section shall submit to a physical examination,
16 including an examination of the heart, upon employment, upon
17 commencement of coverage and thereafter on an annual basis during
18 his or her employment.

19 ~~4~~ **5.** During the period in which a volunteer firefighter is
20 continuously on active status on the roster of a volunteer fire
21 department, a physical examination for the volunteer firefighter is
22 required:

- 23 (a) Upon employment;
- 24 (b) Upon commencement of coverage; and
- 25 (c) Once every 3 years after the physical examination that is
26 required pursuant to paragraph (b),
27 ↳ until the firefighter reaches the age of 50 years. Each volunteer
28 firefighter who is 50 years of age or older shall submit to a physical
29 examination once every 2 years during his or her employment.

30 ~~5~~ **6.** The employer of the volunteer firefighter is responsible
31 for scheduling the physical examination. The employer shall mail to
32 the volunteer firefighter a written notice of the date, time and place
33 of the physical examination at least 10 days before the date of the
34 physical examination and shall obtain, at the time of mailing, a
35 certificate of mailing issued by the United States Postal Service.

36 ~~6~~ **7.** Failure to submit to a physical examination that is
37 scheduled by his or her employer pursuant to subsection ~~5~~ **6**
38 excludes the volunteer firefighter from the benefits of this section.

39 ~~7~~ **8.** The chief of a volunteer fire department may require an
40 applicant to pay for any physical examination required pursuant to
41 this section if the applicant:

- 42 (a) Applies to the department for the first time as a volunteer
43 firefighter; and
- 44 (b) Is 50 years of age or older on the date of his or her
45 application.



1 ~~18.1~~ 9. The volunteer fire department shall reimburse an
2 applicant for the cost of a physical examination required pursuant to
3 this section if the applicant:

4 (a) Paid for the physical examination in accordance with
5 subsection ~~17.1~~ 8;

6 (b) Is declared physically fit to perform the duties required of a
7 firefighter; and

8 (c) Becomes a volunteer with the volunteer fire department.

9 ~~19.1~~ 10. Except as otherwise provided in subsection ~~17.1~~ 8, all
10 physical examinations required pursuant to subsections ~~13.1~~ 4 and ~~14.1~~
11 5 must be paid for by the employer.

12 ~~110.1~~ 11. Failure to correct predisposing conditions which lead
13 to heart disease when so ordered in writing by the examining
14 physician subsequent to a physical examination required pursuant to
15 subsection ~~13.1~~ 4 or ~~14.1~~ 5 excludes the employee from the benefits of
16 this section if the correction is within the ability of the employee.

17 ~~111.1~~ 12. A person who is determined to be:

18 (a) Partially disabled from an occupational disease pursuant to
19 the provisions of this section; and

20 (b) Incapable of performing, with or without remuneration, work
21 as a firefighter, arson investigator or police officer,

22 → may elect to receive the benefits provided under NRS 616C.440
23 for a permanent total disability.

24 ~~112.1~~ 13. Claims filed under this section may be reopened at
25 any time during the life of the claimant for further examination and
26 treatment of the claimant upon certification by a physician of a
27 change of circumstances related to the occupational disease which
28 would warrant an increase or rearrangement of compensation.

29 **Sec. 4.** (Deleted by amendment.)

30 **Sec. 5.** (Deleted by amendment.)

31 **Sec. 6.** The amendatory provisions of this act:

32 1. Apply only to disablement which occurs on or after the
33 effective date of this section; and

34 2. Do not apply to any person who, on the effective date of this
35 section, has completed at least 20 years of creditable service, not
36 including any service credit purchased in a retirement system, as a
37 police officer, firefighter, volunteer firefighter or arson investigator
38 in this State.

39 **Sec. 7.** 1. This section and sections 2, 3 and 6 of this act
40 become effective upon passage and approval.

41 2. Sections 1.5, 2.5 and 3.5 of this act become effective on
42 January 1, 2017.



