

HOUSE BILL NO. 1279

Introduced by

Representatives Roers Jones, Heinert, Jonas, Louser, Schauer, Thomas

Senators Barta, Larson, Lee

1 A BILL ~~for an Act to amend and reenact section 65-01-15.1 of the North Dakota Century Code,~~
2 ~~relating to the presumption of compensability for firefighters and law enforcement officers.~~for an
3 Act to create and enact section 65-01-15.2 of the North Dakota Century Code, relating to
4 compensability for cardiac events for firefighters and law enforcement officers; and to amend
5 and reenact sections 65-01-15 and 65-01-15.1 of the North Dakota Century Code, relating to
6 documentation required for firefighters and law enforcement officers and the presumption of
7 compensability for firefighters and law enforcement officers.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 ~~— **SECTION 1. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is~~
10 ~~amended and reenacted as follows:~~

11 ~~— **65-01-15.1. Presumption of compensability for certain conditions of full-time paid**~~
12 ~~**firefighters and law enforcement officers.**~~

13 ~~— 1. Any condition or impairment of health of a full-time paid firefighter or law enforcement~~
14 ~~officer caused by lung or respiratory disease, hypertension, heart disease, or an~~
15 ~~exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the~~
16 ~~course of employment, or occupational cancer in a full-time paid firefighter, is~~
17 ~~presumed to have been suffered in the line of duty. The presumption may be rebutted~~
18 ~~by clear and convincing evidence the condition or impairment is not work-related.~~

19 ~~— 2. As used in this section, an occupational cancer is one which arises out of employment~~
20 ~~as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or~~
21 ~~carcinogenic, poisonous, toxic, or chemical substances while in the performance of~~
22 ~~active duty as a full-time paid firefighter.~~

23 ~~— 3. a. A full-time paid firefighter or law enforcement officer is not eligible for the benefit~~
24 ~~provided under this section unless that full-time paid firefighter or law~~

1 enforcement officer has completed five years of continuous service and has
2 successfully passed a medical examination which fails to reveal any evidence of
3 such a condition. An employer shall ~~require~~provide at no expense, a medical
4 examination upon employment, for any employee subject to this section.

5 ~~b.~~ After the initial medical examination, an employer shall ~~require~~provide at no
6 expense, at least a periodic medical examination as follows: for one to ten years
7 of service, every five years; for eleven to twenty years of service, every three
8 years; and for twenty-one or more years of service, every year. The periodic
9 medical examination, at a minimum, must consist of a general medical history of
10 the individual and the individual's family; an occupational history including contact
11 with and an exposure to hazardous materials, toxic products, contagious and
12 infectious diseases, and to physical hazards; a physical examination including
13 measurement of height, weight, and blood pressure; and laboratory and
14 diagnostic procedures including a nonfasting total blood cholesterol test indicating
15 cardiovascular health to a reasonable degree of medical certainty.

16 ~~c.~~ If the medical examination reveals that an employee falls into a recognized risk
17 group, the employee must be referred to a qualified health professional for future
18 medical examination.

19 ~~d.~~ If a medical examination produces a false positive result for a condition covered
20 under this section, the organization shall consider the condition to be a
21 compensable injury. In the case of a false positive result, neither the coverage of
22 the condition nor the period of disability may exceed fifty-six days.

23 ~~e.~~ This section does not affect an employee's responsibility to document that the
24 employee has not used tobacco as required under section 65-01-15. Results of
25 the examination must be used in rebuttal to a presumption afforded under this
26 section.

27 ~~4.~~ For purposes of this section, "law enforcement officer" means a person an individual
28 who is licensed to perform peace officer law enforcement duties under chapter 12-63
29 and is employed full time by the bureau of criminal investigation, the game and fish
30 department, the state highway patrol, the parole and probation division, the North
31 Dakota state university police department, the North Dakota state college of science

1 ~~police department, the university of North Dakota police department, a county sheriff's-~~
2 ~~department, a city police department, or the parks and recreation department pursuant~~
3 ~~to section 55-08-04.~~

4 ~~5. The presumption does not include a condition or impairment of health of a full-time~~
5 ~~paid firefighter or law enforcement officer, who has been employed for ten years or~~
6 ~~less, if the condition or impairment is diagnosed more than two years after the~~
7 ~~employment as a full-time paid firefighter or law enforcement officer ends. The~~
8 ~~presumption also does not include a condition or impairment of health of a full-time~~
9 ~~paid firefighter or law enforcement officer, who has been employed more than ten~~
10 ~~years, if the condition or impairment is diagnosed more than five years after the~~
11 ~~employment as a full-time paid firefighter or law enforcement officer ends.~~

12 **SECTION 1. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **65-01-15. Yearly documentation required for firefighter and law enforcement officer.**

15 Except for benefits for an exposure to a bloodborne pathogen as defined by section
16 23-07.5-01 occurring in the course of employment, a full-time paid firefighter or law enforcement
17 officer who uses tobacco is not eligible for the benefits provided under ~~section~~sections
18 65-01-15.1 and 65-01-15.2, unless the full-time paid firefighter or law enforcement officer
19 provides yearly documentation from a health care provider which indicates the full-time paid
20 firefighter or law enforcement officer has not used tobacco for the preceding two years.

21 **SECTION 2. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **65-01-15.1. Presumption of compensability for certain conditions of full-time paid**
24 **firefighters and law enforcement officers.**

- 25 1. Any condition or impairment of health of a full-time paid firefighter or law enforcement
26 officer caused by lung or respiratory disease, hypertension, heart disease, or an
27 exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the
28 course of employment, or occupational cancer in a full-time paid firefighter, is
29 presumed to have been suffered in the line of duty. The presumption may be rebutted
30 by clear and convincing evidence the condition or impairment is not work-related.

1 2. As used in this section, an occupational cancer is one which arises out of employment
2 as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or
3 carcinogenic, poisonous, toxic, or chemical substances while in the performance of
4 active duty as a full-time paid firefighter.

5 3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit
6 provided under this section unless that full-time paid firefighter or law enforcement
7 officer has completed five years of continuous service and has successfully passed a
8 medical examination which fails to reveal any evidence of such a condition. The five
9 years of continuous service requirement may include full-time paid service outside the
10 state. An employer shall ~~require~~provide at no expense a medical examination upon
11 employment, for any employee subject to this section.

12 a. After the initial medical examination, an employer shall ~~require~~provide at no
13 expense at least a periodic medical examination as follows: for one to ten years
14 of service, every five years; for eleven to twenty years of service, every three
15 years; and for twenty-one or more years of service, every year. The periodic
16 medical examination, at a minimum, must consist of a general medical history of
17 the individual and the individual's family; an occupational history including contact
18 with and an exposure to hazardous materials, toxic products, contagious and
19 infectious diseases, and to physical hazards; a physical examination including
20 measurement of height, weight, and blood pressure; and laboratory and
21 diagnostic procedures including a nonfasting total blood cholesterol test.

22 b. If the medical examination reveals that an employee falls into a recognized risk
23 group, the employee must be referred to a qualified health professional for future
24 medical examination.

25 c. If a medical examination produces a false positive result for a condition covered
26 under this section, the organization shall consider the condition to be a
27 compensable injury. In the case of a false positive result, neither the coverage of
28 the condition nor the period of disability may exceed fifty-six days. This section
29 does not affect an employee's responsibility to document that the employee has
30 not used tobacco as required under section 65-01-15. Results of the examination
31 must be used in rebuttal to a presumption afforded under this section.

1 4. For purposes of this section, "law enforcement officer" means ~~a person~~an individual
2 who is licensed to perform peace officer law enforcement duties under chapter 12-63
3 and is employed full time by the bureau of criminal investigation, the game and fish
4 department, the state highway patrol, the parole and probation division, the North
5 Dakota state university police department, the North Dakota state college of science
6 police department, the university of North Dakota police department, a county sheriff's
7 department, a city police department, or the parks and recreation department pursuant
8 to section 55-08-04.

9 5. The presumption does not include a condition or impairment of health of a full-time
10 paid firefighter or law enforcement officer, who has been employed for ten years or
11 less, if the condition or impairment is diagnosed more than two years after the
12 employment as a full-time paid firefighter or law enforcement officer ends. The
13 presumption also does not include a condition or impairment of health of a full-time
14 paid firefighter or law enforcement officer, who has been employed more than ten
15 years, if the condition or impairment is diagnosed more than five years after the
16 employment as a full-time paid firefighter or law enforcement officer ends.

17 **SECTION 3.** Section 65-01-15.2 of the North Dakota Century Code is created and enacted
18 as follows:

19 **65-01-15.2. Presumption of compensability for cardiac events of full-time paid**
20 **firefighters and law enforcement officers.**

21 1. A heart attack, stroke, vascular rupture, or other similar cardiac event, is presumed to
22 be a compensable injury when a full-time paid firefighter or law enforcement officer:

23 a. Engages in a situation involving strenuous physical law enforcement activity, fire
24 suppression activity, or emergency response activity, or participates in a training
25 exercise involving strenuous physical activity; and

26 b. The heart attack, stroke, vascular rupture, or other similar cardiac event occurs
27 no later than forty-eight hours after the full-time paid firefighter or law
28 enforcement officer engaged or participated in the activity listed under
29 subdivision a.

30 2. The presumption under subsection 1 may be rebutted by clear and convincing
31 evidence the condition or impairment was not work-related.

- 1 3. This section applies to any full-time paid firefighter or law enforcement officer who has
2 less than five years of continuous service.
- 3 4. A full-time paid firefighter or law enforcement officer is not eligible for the benefit
4 provided under this section unless the full-time paid firefighter or law enforcement
5 officer has successfully passed a medical examination that failed to reveal any
6 evidence of a cardiovascular condition.
- 7 5. For purposes of this section, "law enforcement officer" means an individual who is
8 licensed to perform peace officer law enforcement duties under chapter 12-63 and is
9 employed full time by the bureau of criminal investigation, the game and fish
10 department, the state highway patrol, the parole and probation division, the North
11 Dakota state university police department, the North Dakota state college of science
12 police department, the university of North Dakota police department, a county sheriff's
13 department, a city police department, or the parks and recreation department pursuant
14 to section 55-08-04.