

## HOUSE BILL NO. 1152

Introduced by

Representative Porter

Senator Klein

(At the request of the Workers Compensation Bureau)

1 A BILL for an Act to amend and reenact subsection 11 of section 65-01-02 of the North Dakota  
2 Century Code, relating to the definition of compensable injury for workers' compensation  
3 purposes; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subsection 11 of section 65-01-02 of the 1999  
6 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7 11. "Compensable injury" means an injury by accident arising out of and in the course  
8 of hazardous employment which must be established by medical evidence  
9 supported by objective medical findings.

10 a. The term includes:

11 (1) Disease caused by a hazard to which an employee is subjected in the  
12 course of employment. The disease must be incidental to the character  
13 of the business and not independent of the relation of employer and  
14 employee. Disease includes effects from radiation.

15 (2) An injury to artificial members.

16 (3) Injuries due to heart attack or other heart-related disease, stroke, and  
17 physical injury caused by mental stimulus, but only when caused by the  
18 employee's employment with reasonable medical certainty, and only  
19 when it is determined with reasonable medical certainty that unusual  
20 stress is at least fifty percent of the cause of the injury or disease as  
21 compared with all other contributing causes combined. Unusual stress  
22 means stress greater than the highest level of stress normally  
23 experienced or anticipated in that position or line of work.

(4) Injuries arising out of employer-required or supplied travel to and from a remote jobsite or activities performed at the direction or under the control of the employer.

(5) An injury caused by the willful act of a third person directed against an employee because of the employee's employment.

(6) A mental or psychological condition caused by a physical injury, but only when the physical injury is determined with reasonable medical certainty to be at least fifty percent of the cause of the condition as compared with all other contributing causes combined, and only when the condition did not preexist the work injury.

b. The term does not include:

(1) Ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases, except that the bureau may pay for preventive treatment for significant exposures documented by emergency medical services providers under chapter 23-07.3, for significant exposures for the employees of licensed facilities as defined by chapter 23-07.3, and for exposure to rabies occurring in the course of employment.

(2) A willfully self-inflicted injury, including suicide or attempted suicide, or an injury caused by the employee's willful intention to injure or kill another.

(3) Any injury caused by the use of intoxicants or the illegal use of controlled substances.

(4) An injury that arises out of an altercation in which the injured employee is an aggressor. This paragraph does not apply to public safety employees, including law enforcement officers, or private security personnel who are required to engage in altercations as part of their job duties if the altercation arises out of the performance of those job duties.

(5) An injury that arises out of an illegal act committed by the injured employee.

- 1                   (6)   An injury that arises out of an employee's voluntary nonpaid
- 2                               participation in any recreational activity, including athletic events,
- 3                               parties, and picnics, even though the employer pays some or all of the
- 4                               cost of the activity.
- 5                   (7)   Injuries attributable to a preexisting injury, disease, or other condition,
- 6                               including when the employment acts as a trigger to produce symptoms
- 7                               in the preexisting injury, disease, or other condition unless the
- 8                               employment substantially accelerates its progression or substantially
- 9                               worsens its severity.
- 10                  (8)   A nonemployment injury that, although acting upon a prior
- 11                               compensable injury, is an independent intervening cause of injury.
- 12                  (9)   A latent or asymptomatic degenerative condition, caused in substantial
- 13                               part by employment duties, which is triggered or made active by a
- 14                               subsequent injury.
- 15                  (10)   A mental injury arising from mental stimulus.

16               **SECTION 2. EFFECTIVE DATE.** This Act is effective for all claims filed after July 31,  
17 2001, regardless of the date of injury.