

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.

- 1 (4) Injuries arising out of employer-required or supplied travel to and from a
2 remote jobsite or activities performed at the direction or under the
3 control of the employer.
- 4 (5) An injury caused by the willful act of a third person directed against an
5 employee because of the employee's employment.
- 6 (6) A mental or psychological condition caused by a physical injury, but
7 only when the physical injury is determined with reasonable medical
8 certainty to be at least fifty percent of the cause of the condition as
9 compared with all other contributing causes combined, and only when
10 the condition did not preexist the work injury.
- 11 b. The term does not include:
- 12 (1) Ordinary diseases of life to which the general public outside of
13 employment is exposed or preventive treatment for communicable
14 diseases, except that the bureau may pay for preventive treatment for
15 significant exposures documented by emergency medical services
16 providers under chapter 23-07.3, for significant exposures for the
17 employees of licensed facilities as defined by chapter 23-07.3, and for
18 exposure to rabies occurring in the course of employment.
- 19 (2) A willfully self-inflicted injury, including suicide or attempted suicide, or
20 an injury caused by the employee's willful intention to injure or kill
21 another.
- 22 (3) Any injury caused by the use of intoxicants or the illegal use of
23 controlled substances.
- 24 (4) An injury that arises out of an altercation in which the injured employee
25 is an aggressor. This paragraph does not apply to public safety
26 employees, including law enforcement officers, or private security
27 personnel who are required to engage in altercations as part of their job
28 duties if the altercation arises out of the performance of those job
29 duties.
- 30 (5) An injury that arises out of an illegal act committed by the injured
31 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.