

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 1 after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 65-01-15, to amend and reenact section 65-01-15.1 and to create and enact section 65-01-15.2, relating to compensability of claims for full-time paid firefighters and law enforcement officers.

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

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

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

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

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

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

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

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

3. a. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has completed five years of continuous service and has successfully passed a medical examination which fails to reveal any evidence of such a condition. The five years of continuous service requirement may include full-time paid service outside of North Dakota. An employer shall

~~require~~ provide at no expense a medical examination upon employment, for any employee subject to this section.

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

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

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

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

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

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

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

1. A heart attack, stroke, vascular rupture or other similar cardiac event, shall be presumed to be a compensable injury when a full-time paid firefighter or law enforcement officer:
  - a. Engages in a situation involving strenuous physical law enforcement activity, fire suppression activity or other emergency response activity, or participates in a training exercise involving strenuous physical activity; and
  - b. The heart attack, stroke, vascular rupture or other similar cardiac event commences not later than 48 hours after the full-time paid firefighter or law enforcement officer is engaged or participating in the activities described in paragraph a.
  - c. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.
2. This section applies to any full-time paid firefighter or law enforcement officer who has completed less than five years of continuous service.
3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has successfully passed a medical examination which fails to reveal any evidence of such a condition.
4. For purposes of this section, "law enforcement officer" means a person who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.