

S.85

An act relating to workers' compensation for firefighters and rescue or ambulance workers

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

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(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

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(H)(i) In the case of firefighters and members of a rescue or an ambulance squad, disability or death resulting from lung disease or an infectious disease caused by aerosolized airborne infectious agents or blood-borne pathogens and acquired after a documented occupational exposure in the line of duty to a person with an illness shall be presumed to be compensable, unless it is shown by a preponderance of the evidence that the disease was caused by nonservice-connected risk factors or nonservice-connected exposure. The presumption of compensability shall not

be available if the employer offers a vaccine that is refused by the firefighter or rescue or ambulance worker and the firefighter or rescue or ambulance worker is subsequently diagnosed with the particular disease for which the vaccine was offered, unless the firefighter or rescue or ambulance worker's physician deems that the vaccine is not medically safe or appropriate for the firefighter or rescue or ambulance worker.

(ii) In the case of lung disease the presumption of compensability shall not apply to any firefighter or rescue or ambulance worker who has used tobacco products at any time within 10 years of the date of diagnosis.

(iii) A firefighter or rescue or ambulance worker shall have been diagnosed within 10 years of the last active date of employment as a firefighter or rescue or ambulance worker.

(iv) As used in this subdivision, "exposure" means contact with infectious agents such as bodily fluids through inhalation, percutaneous inoculation, or contact with an open wound, nonintact skin, or mucous membranes, or other potentially infectious materials that may result from the performance of an employee's duties. Exposure includes:

(I) Percutaneous exposure. Percutaneous exposure occurs when blood or bodily fluid is introduced into the body through the skin, including by needle sticks, cuts, abrasions, broken cuticles, and chapped skin.

(II) Mucocutaneous exposure. Mucocutaneous exposure occurs when blood or bodily fluids come in contact with a mucous membrane.

(III) Airborne exposure. Airborne exposure means contact with an individual with a suspected or confirmed case of airborne disease or contact with air containing aerosolized airborne disease.

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(28) "Aerosolized airborne infectious agents" means microbial aerosols that can enter the human body, usually through the respiratory tract, and cause disease, including mycobacterium tuberculosis, meningococcal meningitis, varicella zoster virus, diphtheria, mumps, pertussis, pneumonic plague, rubella, severe acute respiratory syndrome, anthrax, and novel influenza.

(29) "Blood-borne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans, including anthrax, hepatitis B virus (HBV), hepatitis C virus (HCV), human immunodeficiency virus (HIV), rabies, vaccinia, viral hemorrhagic fevers, and methicillin-resistant staphylococcus aureus.

(30) "Bodily fluids" means blood and bodily fluids containing blood or other potentially infectious materials as defined in the Vermont Occupational Safety and Health Administration Bloodborne Pathogen Standard (1910.1030). Bodily fluids also include respiratory, salivary, and sinus fluids, including

droplets, sputum and saliva, mucus, and other fluids through which infectious airborne organisms can be transmitted between persons.

Sec. 2. EDUCATION AND TRAINING

To the extent that resources are available the Department of Health and the Vermont Fire Academy shall provide education and training on an annual basis to firefighters, first responders, emergency medical technicians, and paramedics on the requirements of the Occupational Safety and Health Administration standards 1910.134 (respiratory protection) and 1910.1030 (bloodborne pathogens).

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.