

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred Senate Bill No. 342 entitled “An act relating to temporary workers’
4 compensation amendments related to COVID-19” respectfully reports that it
5 has considered the same and recommends that the House propose to the Senate
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 Sec. 1. WORKERS’ COMPENSATION; ADMINISTRATIVE
9 FLEXIBILITY; TEMPORARY AUTHORITY

10 (a) In order to effectuate the remedial purpose of Vermont’s Workers’
11 Compensation law and to ensure that injured workers are able to obtain the
12 workers’ compensation benefits they are entitled to, the Commissioner shall,
13 during a declared state of emergency related to COVID-19, have authority to
14 issue guidance and adopt procedures to extend deadlines or temporarily amend
15 or waive specific requirements of 21 V.S.A. chapter 9 and the rules adopted
16 pursuant to that chapter.

17 (b) Any guidance or procedures that are issued or adopted by the
18 Commissioner pursuant to this section shall be effective during the state of
19 emergency in which they are adopted, and the Commissioner shall establish a
20 procedure to transition those claims impacted by the emergency to preexisting
21 rules within 45 days after the termination of the state of emergency.

1 (c) The Commissioner shall post any guidance issued or procedure adopted
2 pursuant to this section on the Department’s website and shall make reasonable
3 efforts to provide prompt notice of the guidance or procedure to employers,
4 attorneys, and employee organizations.

5 (d) The Commissioner shall not be required to initiate rulemaking pursuant
6 to 3 V.S.A. § 831(c) in relation to any guidance issued or procedure adopted
7 pursuant to this section.

8 Sec. 2. COVID-19; PRESUMPTION OF COMPENSABILITY

9 (a)(1) In the case of a front-line worker, disability or death resulting from
10 COVID-19 shall be presumed to be compensable pursuant to 21 V.S.A.
11 chapter 9, provided that the front-line worker receives a positive laboratory test
12 for COVID-19 between March 1, 2020 and January 15, 2021.

13 (2) As used in this subsection:

14 (A)(i) “Elevated risk of exposure to COVID-19” means the
15 performance of a job that requires the worker to have regular physical or close
16 contact with patients or members of the public in the course of his or her
17 employment.

18 (ii) As used in this subdivision (2)(A), “close contact” means
19 interactions with another individual that require the employee to be within six
20 feet of that individual.

1 (B) “Front-line worker” means an individual with an elevated risk of
2 exposure to COVID-19 who is employed as:

3 (i) a firefighter as defined in 20 V.S.A. § 3151(3) and (4);
4 (ii) a law enforcement officer who has been certified by the
5 Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151;
6 (iii) emergency medical personnel and volunteer personnel as
7 defined in 24 V.S.A. § 2651;
8 (iv) a worker in a health care facility or in an institution or office
9 where health care services are provided by licensed healthcare professionals;
10 (v) a correctional officer;
11 (vi) a worker in a long-term care facility or residential care
12 facility;
13 (vii) a childcare provider who is required to provide childcare to
14 the children of other front-line workers pursuant to Executive Order 01-20;
15 (viii) a home health care worker or personal care attendant;
16 (ix) a worker in a morgue, funeral establishment, or crematory
17 facility; and
18 (x) a worker performing services that the Commissioner
19 determines place the worker at a similarly elevated risk of being exposed to or
20 contracting COVID-19 as the other occupations listed in this subsection (a).

1 (b) For an employee who is not a front-line worker as defined in
2 subdivision (a)(2)(B) of this section, disability or death resulting from COVID-
3 19 shall be presumed to be compensable pursuant to 21 V.S.A. chapter 9 if the
4 employee receives a positive laboratory test for COVID-19 between March 1,
5 2020 and January 15, 2021 and, not more than 14 days prior to the date on
6 which the employee is tested or examined, either:

7 (1) had documented occupational exposure in the course of employment
8 to an individual with COVID-19; or

9 (2) performed services at a residence or facility with one or more
10 residents or employees who:

11 (A) were present at the time the services were performed; and either

12 (B)(i) had COVID-19 at that time; or

13 (ii) were diagnosed with COVID-19 within a reasonable period of
14 time after the services were performed.

15 (c)(1) The presumption of compensability in subsection (a) of this section
16 shall not apply if it is shown by a preponderance of the evidence that the
17 disease was caused by non-employment-connected risk factors or non-
18 employment-connected exposure.

19 (2) The presumption of compensability in subsection (b) of this section
20 shall not apply if the employer can show by a preponderance of the evidence
21 that:

1 (A) the disease was caused by non-employment-connected risk
2 factors or non-employment-connected exposure; or

3 (B) at the time the employee was potentially exposed to COVID-19,
4 the employee’s place of employment was in compliance with the Restart
5 Vermont Worksafe Guidance issued by the Agency of Commerce and
6 Community Development, and any similar guidance issued by local or
7 municipal authorities.

8 (d) The Commissioner shall not be required to initiate rulemaking pursuant
9 to 3 V.S.A. § 831(c) in relation to any guidance issued or procedure adopted in
10 relation to this section.

11 Sec. 3. PROSPECTIVE REPEAL

12 In the absence of legislative action to the contrary, Secs. 1 and 2 of this act
13 are repealed on January 15, 2021.

14 Sec. 4. EFFECTIVE DATE

15 Notwithstanding 1 V.S.A. § 214, this act shall take effect on passage and
16 shall apply retroactively to March 1, 2020.

17
18 (Committee vote: _____)

19 _____

20 Representative _____

21 FOR THE COMMITTEE