

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2239

By: May

AS INTRODUCED

An Act relating to workers' compensation; amending Section 65, Chapter 208, O.S.L. 2013, as amended by Section 3, Chapter 390, O.S.L. 2015 (85A O.S. Supp. 2020, Section 65), which relates to occupational diseases; establishing presumption; defining term; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 65, Chapter 208, O.S.L. 2013, as amended by Section 3, Chapter 390, O.S.L. 2015 (85A O.S. Supp. 2020, Section 65), is amended to read as follows:

Section 65. A. If an employee suffers from an occupational disease as defined in this section and is disabled or dies as a result of the disease, the employee, or, in case of death, his or her dependents, shall be entitled to compensation as if the disability or death were caused by injury arising out of work activities within the scope of employment, except as otherwise provided in this section.

1 B. No compensation shall be payable for an occupational disease
2 if the employee, at the time of entering into the employment of the
3 employer by whom the compensation would otherwise be payable,
4 falsely represented himself or herself in writing as not having
5 previously been disabled, laid off, or compensated in damages or
6 otherwise, because of the disease.

7 C. 1. If an occupational disease is aggravated by any other
8 disease or infirmity, not itself compensable, or if disability or
9 death from any other cause, not itself compensable, is aggravated,
10 prolonged, accelerated, or in any way contributed to by an
11 occupational disease, the compensation payable shall be reduced and
12 limited to the proportion only of the compensation that would be
13 payable if the occupational disease were the major cause of the
14 disability or death as the occupational disease, as a causative
15 factor, bears to all the causes of the disability or death.

16 2. The reduction in compensation is to be effected by reducing
17 the number of weekly or monthly payments or the amounts of the
18 payments, as under the circumstances of the particular case may be
19 for the best interest of the claimant.

20 D. 1. "Occupational disease", as used in ~~this act~~ the
21 Administrative Workers' Compensation Act, unless the context
22 otherwise requires, means any disease that results in disability or
23 death and arises out of and in the course of the occupation or
24 employment of the employee or naturally follows or unavoidably

1 results from an injury as that term is defined in ~~this act~~ the
2 Administrative Workers' Compensation Act. A causal connection
3 between the occupation or employment and the occupational disease
4 shall be established by a preponderance of the evidence.

5 2. No compensation shall be payable for any contagious or
6 infectious disease unless contracted in the course and scope of
7 employment. In the event a first responder tests positive for
8 severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
9 commonly known as the coronavirus or COVID-19, the disease shall be
10 presumed to have been contracted in the course and scope of
11 employment unless the employer proves by a preponderance of the
12 evidence that the disease was not contracted in the course and scope
13 of employment. The presumption shall apply to any claim filed on or
14 after the effective date of this act and to any claim filed before
15 the effective date of this act if the claim was denied and an appeal
16 of the denial has been filed with the Workers' Compensation
17 Commission. For purposes of this paragraph, a "first responder" is
18 defined as a peace officer, reserve peace officer, firefighter, or
19 emergency medical technician employed by a municipality, county,
20 emergency medical services provider, or the State of Oklahoma, or a
21 volunteer firefighter, who is exposed to COVID-19 during the
22 performance of his or her duties.

23 3. No compensation shall be payable for any ordinary disease of
24 life to which the general public is exposed.

1 E. 1. When compensation is payable for an occupational
2 disease, the employer in whose employment the employee was last
3 injuriously exposed to the hazards of the disease and the carrier,
4 if any, ~~on~~ responsible for the risk when the employee was last
5 injuriously exposed under the employer shall be liable.

6 2. The amount of the compensation shall be based on the average
7 weekly wage of the employee when last injuriously exposed under the
8 employer, and the notice of injury and claim for compensation shall
9 be given and made to that employer.

10 F. 1. An employer shall not be liable for any compensation for
11 an occupational disease unless:

- 12 a. the disease is due to the nature of an employment in
13 which the hazards of the disease actually exist and is
14 actually incurred by the employee in the course and
15 scope of his or her employment. This includes any
16 disease due to or attributable to exposure to or
17 contact with any radioactive material by an employee
18 in the course and scope of his or her employment,
- 19 b. the disease is COVID-19 and the employer has not
20 overcome the presumption provided for in paragraph 2
21 of subsection D of this section,
- 22 c. disablement or death results within three (3) years in
23 case of silicosis or asbestosis, or one (1) year in
24 case of any other occupational disease, except a

1 diseased condition caused by exposure to X-rays,
2 radioactive substances, or ionizing radiation, after
3 the last injurious exposure to the disease in the
4 employment, or

5 ~~e.~~ d. in case of death, death follows continuous disability
6 from the disease, commencing within the period, for
7 which compensation has been paid or awarded or timely
8 claim made as provided in subparagraph ~~b~~ c of this
9 paragraph and results within seven (7) years after the
10 last exposure.

11 2. However, in case of a diseased condition caused by exposure
12 to X-rays, radioactive substances, or ionizing radiation only, the
13 limitations expressed do not apply.

14 SECTION 2. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18
19 58-1-6884 MAH 01/11/21
20
21
22
23
24