

2021 -- H 5264

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - WORKERS' COMPENSATION -
OCCUPATIONAL DISEASES

Introduced By: Representatives Williams, Batista, Biah, Slater, and Felix

Date Introduced: January 29, 2021

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-34-2 of the General Laws in Chapter 28-34 entitled "Workers'
2 Compensation - Occupational Diseases" is hereby amended to read as follows:

3 **28-34-2. Occupational diseases listed -- Treatment as compensable injury.**

4 The disablement of any employee resulting from an occupational disease or condition
5 described in the following schedule shall be treated as the happening of a personal injury, as defined
6 in § 28-33-1, within the meaning of chapters 29 -- 38 of this title, and the procedure and practice
7 provided in those chapters shall apply to all proceedings under this chapter, except where
8 specifically provided otherwise in this chapter:

- 9 (1) Anthrax.
- 10 (2) Arsenic poisoning or its sequelae.
- 11 (3) Brass or zinc poisoning or its sequelae.
- 12 (4) Lead poisoning or its sequelae.
- 13 (5) Manganese poisoning.
- 14 (6) Mercury poisoning or its sequelae.
- 15 (7) Phosphorous poisoning or its sequelae.
- 16 (8) Poisoning by wood alcohol.
- 17 (9) Poisoning by carbon bisulphide, methanol, naphtha, or volatile halogenated
18 hydrocarbons, or any sulphide, or its sequelae.

- 1 (10) Poisoning by benzol, or nitro-, hydro-, hydroz-, amido derivatives of benzol
2 (dinitrobenzol, anilin, and others), or its sequelae.
- 3 (11) Poisoning by carbon monoxide.
- 4 (12) Poisoning by nitrous fumes or its sequelae.
- 5 (13) Poisoning by nickel carbonyl or its sequelae.
- 6 (14) Dope poisoning (poisoning by tetrachlormethane or any substance used as or in
7 conjunction with a solvent for acetate or cellulose or nitrocellulose or its sequelae).
- 8 (15) Poisoning by formaldehyde and its preparations.
- 9 (16) Chrome ulceration or its sequelae or chrome poisoning.
- 10 (17) Epitheliomatous cancer or ulceration of the skin, or of the corneal surface of the eye,
11 due to tar, pitch, bitumen, mineral oil, or paraffin or any compound, product, or residue of any of
12 these substances.
- 13 (18) Glanders.
- 14 (19) Compressed air illness or its sequelae.
- 15 (20) Miner's disease, including only cellulitis, bursitis, ankylostomiasis, tenosynovitis, and
16 nystagmus.
- 17 (21) Cataract in glassworkers.
- 18 (22) Radium poisoning or disability due to radioactive properties of substances or to
19 Roentgen rays (X-rays).
- 20 (23) Methyl chloride poisoning.
- 21 (24) Poisoning by sulphuric, hydrochloric, or hydrofluoric acid.
- 22 (25) Respiratory, gastrointestinal, or physiological nerve and eye disorders due to contact
23 with petroleum products and their fumes.
- 24 (26) Disability arising from blisters or abrasions.
- 25 (27) Hernia, clearly recent in origin and resulting from a strain arising out of and in the
26 course of employment and promptly reported to the employer.
- 27 (28) Infection or inflammation of the skin or eyes or other external contact surfaces or oral
28 or nasal cavities due to oils, cutting compounds, or lubricants, dusts, liquids, fumes, gases, or
29 vapors.
- 30 (29) Dermatitis (venenata).
- 31 (30) Disability arising from bursitis or synovitis.
- 32 (31) Disability arising from frostbite.
- 33 (32) Disability arising from silicosis or asbestosis.
- 34 (33) Disability arising from any cause connected with or arising from the peculiar

1 characteristics of the employment.

2 (34) Disability arising from any cause connected with or arising from ionizing radiation.

3 (35) Disability arising from pneumoconiosis caused by the inhalation of metallic minerals
4 or mineral particles.

5 (36) The disablement of an employee resulting from mental injury caused or accompanied
6 by identifiable physical trauma or from a mental injury caused by emotional stress resulting from
7 a situation of greater dimensions than the day-to-day emotional strain and tension which all
8 employees encounter daily without serious mental injury shall be treated as an injury as defined in
9 § 28-29-2(7).

10 (37) Disability or quarantine resulting from COVID-19 or any other viral infection ("other
11 viral infection") classified by an executive order issued during a declared state of emergency.

12 (i) There shall be a rebuttable presumption that COVID-19 or other viral infection during
13 the declaration of a state of emergency by executive order due to COVID-19 or other viral infection
14 is a compensable occupational disease arising out of and in the course of an employee's employment
15 where any of the following requirements are satisfied:

16 (A) The employee is:

17 (I) A licensed health care worker employed in a health care, congregate care, home care or
18 long-term care setting, having direct or indirect contact with persons with COVID-19 or other viral
19 infection; or

20 (II) A direct support professional employed in a health care, congregate care, home care or
21 long-term care setting, having direct or indirect contact with persons with COVID-19 or other viral
22 infection; or

23 (III) A public safety worker, including police officer, firefighter or correctional officer
24 having direct or indirect contact with persons with COVID-19 or other viral infection; or

25 (IV) An essential worker, defined as any employee whose employment is necessary for the
26 continued health and safety of the community, including, but not limited to, grocery or
27 transportation workers, having direct or indirect contact with persons with COVID-19 or other viral
28 infection; or

29 (V) Any other class of employees designated by an executive order of the governor issued
30 during a declared state of emergency to be covered pursuant to § 28-34-2 (37)(i).

31 (B) The employee's contraction of COVID-19 or other viral infection must be confirmed
32 by a positive laboratory test or, if a test was not available for the employee, as diagnosed, based on
33 the employee's symptoms, by a licensed physician, licensed physician's assistant or licensed
34 advanced practice registered nurse (APRN).

1 (C) A copy of the positive test or documentation of the diagnosis must be provided to the
2 employer or the employer's workers' compensation insurer.

3 (D) The employer or insurer shall only rebut the presumption that the employee's
4 contraction of COVID-19 or other viral infection is an occupational disease by establishing by a
5 preponderance of the evidence that the disease was caused by non-employment-connected risk
6 factors or non-employment-connected exposure.

7 (ii) The date of injury for an employee who has contracted COVID-19 or other viral
8 infection is the date the employee was unable to work due to contraction of or quarantine due to
9 COVID-19 or other viral infection or was unable to work due to symptoms that were later diagnosed
10 as COVID-19 or other viral infection, whichever occurred first.

11 (iii) An employee who has contracted COVID-19 or other viral infection, but, who does
12 not meet any of the requirements of § 28-34-2(37)(i), is not prohibited from claiming an
13 occupational disease as provided in this chapter or from claiming a workers' compensation injury;
14 provided, however, the burden shall be on the employee to establish, to a reasonable degree of
15 medical certainty, that it was more probable than not that the COVID-19 or other viral infection
16 occurred as a result of workplace exposure.

17 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS - WORKERS' COMPENSATION -
OCCUPATIONAL DISEASES

1 This act would classify as an occupational disease any disability or quarantine resulting
2 from COVID-19 or other viral infection classified by an executive order during a declared state of
3 emergency, subject to certain requirements.

4 This act would take effect upon passage.

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