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Chapter No. 467
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SENATE BILL NO. 2835

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2835

AN ACT TO CREATE THE "MISSISSIPPI FIRST RESPONDERS HEALTH AND SAFETY ACT"; TO PROVIDE THAT WHEN A FIRST RESPONDER WHO HAS COMPLETED A CERTAIN NUMBER OF YEARS OF SERVICE IS UNABLE TO PERFORM HIS OR HER REGULAR DUTIES BY REASON OF CANCER, THE AFFECTED FIRST RESPONDER OR HIS BENEFICIARIES SHALL BE ENTITLED TO ALL RIGHTS AND BENEFITS AS GRANTED BY THIS ACT; TO AMEND SECTION 71-3-9, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

SECTION 1. This act shall be known and may be cited as the "Mississippi First Responders Health and Safety Act" and may also be referred to as the "Arson Investigator Danny Benton and Police Chief Henry Manuel, Sr., Act."

SECTION 2. For purposes of this act, the following words shall have the following meanings unless the context clearly indicates otherwise:

(a) "Cancer" means a disease caused by an uncontrolled division of abnormal cells in a part of the body or a malignant growth or tumor resulting from the division of abnormal cells. "Cancer" is limited to cancer affecting the bladder, brain, colon, liver, pancreas, skin, kidney, gastrointestinal tract,

reproductive tract, leukemia, lymphoma, multiple myeloma, prostate, testicles and breast.

(b) "Firefighter" means any firefighter who has ten (10) or more years of service and is employed by the State of Mississippi, or any political subdivision thereof, on a full-time duty status, and any firefighter who has ten (10) or more years of service and is registered with the State of Mississippi, or a political subdivision thereof, on a volunteer firefighting status.

(c) "Law enforcement officer" means any officer who has been certified by the Mississippi Board on Law Enforcement Officer Standards and Training and has ten (10) or more years of service.

(d) "First responder" means any firefighter and law enforcement officer as defined in paragraphs (b) and (c) of this section.

SECTION 3. (1) As an alternative to pursuing workers' compensation benefits, upon a diagnosis of cancer, a first responder is entitled to the following benefits:

(a) Provided the diagnosis occurs on or after the first responder's effective date of coverage, a lump-sum benefit of Thirty-five Thousand Dollars ($35,000.00) of coverage for each diagnosis payable to the first responder upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board-certified physician in the medical specialty appropriate for the type of cancer diagnosed that the cancer was caused by an occupational hazard and that there are one or more malignant

tumors characterized by the uncontrollable and abnormal growth and spread of malignant cells with invasion of normal tissue and that either:

(i) There is metastasis, and surgery, radiotherapy or chemotherapy is medically necessary;

(ii) There is a tumor of the prostate, provided that it is treated with radical prostatectomy or external beam therapy; or

(iii) The first responder has terminal cancer, his or her life expectancy is twenty-four (24) months or less from the date of diagnosis, and will not benefit from, or has exhausted, curative therapy.

(b) Provided the diagnosis occurs on or after the first responder's effective date of coverage, a lump-sum benefit of Six Thousand Two Hundred Fifty Dollars ($6,250.00) for each diagnosis payable to the first responder upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board-certified physician in the medical specialty appropriate for the type of cancer involved that:

(i) There is carcinoma in situ such that surgery, radiotherapy or chemotherapy has been determined to be medically necessary;

(ii) There are malignant tumors which are treated by endoscopic procedures alone; or

(iii) There are malignant melanomas.

(c) The combined total of benefits received by any first responder under paragraphs (a) and (b) of this subsection (1) during his or her lifetime shall not exceed Fifty Thousand Dollars ($50,000.00).

(d) Provided the date of disability occurs on or after the first responder's effective date of coverage, a disability benefit payable as a result of a specific cancer to begin six (6) months after the date of disability and submission to the insurance carrier or other payor of acceptable proof of disability caused by the specified disease or events such that the illness precludes the first responder from serving as a first responder:

(i) For nonvolunteer first responders, a monthly benefit equal to sixty percent (60%) of the first responder's monthly salary as an employed first responder with a fire or police department or a monthly benefit of Five Thousand Dollars ($5,000.00), whichever is less, of which the first payment shall be made six (6) months after the total disability and shall continue for thirty-six (36) consecutive monthly payments unless the first responder regains the ability to perform his or her duties as determined by reevaluation under subparagraph (iv) of this paragraph, at which time the payments shall cease the last day of the month of reevaluation;

(ii) For volunteer firefighters, a monthly benefit of One Thousand Five Hundred Dollars ($1,500.00) of which the first payment shall be made six (6) months after the total

disability and shall continue for thirty-six (36) consecutive monthly payments unless the first responder regains the ability to perform his or her duties as determined by reevaluation under subparagraph (iv) of this paragraph, at which time the payments shall cease the last day of the month of reevaluation;

(iii) Such monthly benefit shall be subordinate to any other benefit actually paid to the first responder solely for such disability from any other source, not including private insurance purchased solely by the first responder;

(iv) Any first responder receiving the monthly benefits may be required to have his or her condition reevaluated. In the event any such reevaluation reveals that such person has regained the ability to perform duties as a first responder, then his or her monthly benefits shall cease the last day of the month of reevaluation; and

(v) In the event that there is a subsequent recurrence of a disability caused by a specified cancer, which precludes the first responder from serving as a first responder, he or she shall be entitled to receive any remaining monthly payments.

(e) An eligible first responder who dies as a result of a compensable type of cancer, or circumstances arising out of the treatment of a compensable type of cancer, but does not submit sufficient proof of claim prior to the first responder's death, is entitled to receive benefits specified in paragraphs (a) and (b)

of this subsection (1) and made available to the deceased first responder's beneficiary or beneficiaries.

(f) Any first responder who was simultaneously a member of more than one (1) fire or police department at the time of diagnosis shall not be entitled to receive benefits from or on behalf of more than one (1) fire or police department. The first responder's primary place of employment shall maintain coverage for the eligible first responder; and

(g) An otherwise eligible first responder shall be precluded from the benefits listed under this section if he or she has filed for workers' compensation for the same diagnosis of cancer.

SECTION 4. The costs of purchasing an insurance policy that provides for cancer coverage in compliance with this act, or the costs of providing such benefits through a self-funded system in compliance with this act, must be borne solely by the employer that employs the eligible first responder and may not be funded partially or wholly by individual first responders. In addition to any other purpose authorized, county governing authorities and municipal governing authorities may use proceeds from county and municipal taxes for the purposes of providing insurance in compliance with this act. The computation of premium amounts by an insurer for the coverage under this act shall be subject to generally accepted adjustments from insurance underwriting.

SECTION 5. (1) The state, municipality, county or fire protection district shall, no later than January 1, 2022, show proof of insurance coverage that meets the requirements of this act to the Attorney General, or shall show satisfactory proof of the ability to pay such compensation to ensure adequate coverage for all eligible first responders.

(2) The Attorney General shall adopt such rules and regulations as are reasonable and necessary to implement the provisions of this act. Such regulations shall include the process by which a first responder files a claim for cancer and the process by which claimants can appeal a denial of benefits.

(3) The Attorney General shall adopt rules to establish firefighter cancer prevention best practices as it relates to personal protective equipment, decontamination, fire suppression, apparatus and fire stations.

SECTION 6. Section 71-3-9, Mississippi Code of 1972, is amended as follows:

71-3-9. (1) Except as provided under subsection (2) of this section, the liability of an employer to pay compensation shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages at common law or otherwise from such employer on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this chapter, an

injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under this chapter, or to maintain an action at law for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee.

(2) An employer shall not be liable under this chapter to a first responder, as defined in Section 2 of this act, if such first responder elects to receive benefits under the "Mississippi First Responders Health and Safety Act."

SECTION 7. This act shall take effect and be in force from and after July 1, 2021.

PASSED BY THE SENATE
March 29, 2019

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 29, 2019

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

April 16, 2019
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