

REFERENCE TITLE: workers' compensation; infectious disease; exposure

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# **SB 1127**

Introduced by  
Senator Verschoor

AN ACT

AMENDING TITLE 23, CHAPTER 6, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-1043.04; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 6, article 8, Arizona Revised Statutes,  
3 is amended by adding section 23-1043.04, to read:

4 23-1043.04. Methicillin-resistant staphylococcus aureus; spinal  
5 meningitis; tuberculosis; establishing exposure;  
6 definition

7 A. A CLAIM FOR A CONDITION, INFECTION, DISEASE OR DISABILITY INVOLVING  
8 OR RELATED TO METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS, SPINAL MENINGITIS  
9 OR TUBERCULOSIS SHALL INCLUDE THE OCCURRENCE OF A SIGNIFICANT EXPOSURE AS  
10 DEFINED IN THIS SECTION AND, EXCEPT AS PROVIDED IN SUBSECTION B OF THIS  
11 SECTION, SHALL BE PROCESSED AND DETERMINED UNDER THIS CHAPTER AND APPLICABLE  
12 PRINCIPLES OF LAW.

13 B. NOTWITHSTANDING ANY OTHER LAW, AN EMPLOYEE WHO SATISFIES THE  
14 FOLLOWING CRITERIA PRESENTS A PRIMA FACIE CLAIM FOR A CONDITION, INFECTION,  
15 DISEASE OR DISABILITY INVOLVING OR RELATED TO METHICILLIN-RESISTANT  
16 STAPHYLOCOCCUS AUREUS, SPINAL MENINGITIS OR TUBERCULOSIS IF THE MEDICAL  
17 EVIDENCE SHOWS TO A REASONABLE DEGREE OF MEDICAL PROBABILITY THAT THE  
18 EMPLOYEE SUSTAINED A SIGNIFICANT EXPOSURE WITHIN THE MEANING OF THIS SECTION:

19 1. THE EMPLOYEE'S REGULAR COURSE OF EMPLOYMENT INVOLVES HANDLING OF OR  
20 EXPOSURE TO METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS, SPINAL MENINGITIS OR  
21 TUBERCULOSIS, INCLUDING FIREFIGHTERS, LAW ENFORCEMENT OFFICERS, EMERGENCY  
22 MEDICAL TECHNICIANS AND PARAMEDICS.

23 2. WITHIN TEN CALENDAR DAYS AFTER A POSSIBLE SIGNIFICANT EXPOSURE THAT  
24 ARISES OUT OF AND IN THE COURSE OF EMPLOYMENT, THE EMPLOYEE REPORTS IN  
25 WRITING TO THE EMPLOYER THE DETAILS OF THE EXPOSURE. THE EMPLOYER SHALL  
26 NOTIFY ITS INSURANCE CARRIER OR CLAIMS PROCESSOR OF THE REPORT. FAILURE OF  
27 THE EMPLOYER TO NOTIFY THE INSURANCE CARRIER IS NOT A DEFENSE TO A CLAIM BY  
28 THE EMPLOYEE.

29 3. FOR A CLAIM INVOLVING METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS,  
30 THE EMPLOYEE IS DIAGNOSED WITH METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS  
31 WITHIN TWO TO TEN DAYS OF THE POSSIBLE SIGNIFICANT EXPOSURE.

32 4. FOR A CLAIM INVOLVING SPINAL MENINGITIS, THE EMPLOYEE IS DIAGNOSED  
33 WITH SPINAL MENINGITIS WITHIN TWO TO EIGHTEEN DAYS OF THE POSSIBLE  
34 SIGNIFICANT EXPOSURE.

35 5. FOR A CLAIM INVOLVING TUBERCULOSIS, THE EMPLOYEE IS DIAGNOSED WITH  
36 TUBERCULOSIS WITHIN TWELVE WEEKS OF THE POSSIBLE SIGNIFICANT EXPOSURE.

37 C. ON PRESENTATION OR SHOWING OF A PRIMA FACIE CLAIM UNDER THIS  
38 SECTION, THE EMPLOYER MAY PRODUCE SPECIFIC, RELEVANT AND PROBATIVE EVIDENCE  
39 TO DISPUTE THE UNDERLYING FACTS, TO CONTEST WHETHER THE EXPOSURE WAS  
40 SIGNIFICANT AS DEFINED IN THIS SECTION OR TO ESTABLISH AN ALTERNATIVE  
41 SIGNIFICANT EXPOSURE INVOLVING THE PRESENCE OF METHICILLIN-RESISTANT  
42 STAPHYLOCOCCUS AUREUS, SPINAL MENINGITIS OR TUBERCULOSIS.

43 D. A PERSON ALLEGED TO BE A SOURCE OF A SIGNIFICANT EXPOSURE SHALL NOT  
44 BE COMPELLED BY SUBPOENA OR OTHER COURT ORDER TO RELEASE CONFIDENTIAL  
45 INFORMATION RELATING TO METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS, SPINAL

1 MENINGITIS OR TUBERCULOSIS EITHER BY DOCUMENT OR BY ORAL TESTIMONY. EVIDENCE  
2 OF THE ALLEGED SOURCE'S METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS, SPINAL  
3 MENINGITIS OR TUBERCULOSIS STATUS MAY BE INTRODUCED BY EITHER PARTY IF THE  
4 ALLEGED SOURCE KNOWINGLY AND WILLINGLY CONSENTS TO THE RELEASE OF THAT  
5 INFORMATION.

6 E. NOTWITHSTANDING TITLE 36, CHAPTER 6, ARTICLE 4, MEDICAL INFORMATION  
7 REGARDING THE EMPLOYEE OBTAINED BY A PHYSICIAN OR SURGEON IS SUBJECT TO  
8 SECTION 23-908, SUBSECTION D.

9 F. THE COMMISSION BY RULE SHALL PRESCRIBE REQUIREMENTS AND FORMS  
10 REGARDING EMPLOYEE NOTIFICATION OF THE REQUIREMENTS OF THIS SECTION AND THE  
11 PROPER DOCUMENTATION OF A SIGNIFICANT EXPOSURE.

12 G. IF AN EMPLOYEE REPORTS A SIGNIFICANT EXPOSURE TO  
13 METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS, SPINAL MENINGITIS OR  
14 TUBERCULOSIS UNDER THIS SECTION, THE EMPLOYER'S INSURANCE CARRIER OR CLAIMS  
15 PROCESSOR SHALL PAY THE EXPENSES OF ANY PROPHYLACTIC MEDICAL TREATMENT.

16 H. FOR THE PURPOSES OF THIS SECTION, "SIGNIFICANT EXPOSURE" MEANS  
17 EXPOSURE TO AEROSOLIZED BACTERIA FOR CLAIMS UNDER THIS SECTION RELATING TO  
18 METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS, SPINAL MENINGITIS OR  
19 TUBERCULOSIS. SIGNIFICANT EXPOSURE INCLUDES EXPOSURE TO BODILY FLUIDS OR  
20 SKIN FOR CLAIMS UNDER THIS SECTION RELATING TO METHICILLIN-RESISTANT  
21 STAPHYLOCOCCUS AUREUS.