

REFERENCE TITLE: workers' compensation; occupational disease

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1173

Introduced by
Senator Leff

AN ACT

AMENDING SECTION 23-901.01, ARIZONA REVISED STATUTES; 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. Section 23-901.01, Arizona Revised Statutes, is amended to
3 read:
4 23-901.01. Occupational disease; proximate causation;
5 definitions
6 A. The occupational diseases as defined by section 23-901, paragraph
7 13, subdivision (c) shall be deemed to arise out of the employment only if
8 all of the following six requirements exist:
9 1. There is a direct causal connection between the conditions under
10 which the work is performed and the occupational disease.
11 2. The disease can be seen to have followed as a natural incident of
12 the work as a result of the exposure occasioned by the nature of the
13 employment.
14 3. The disease can be fairly traced to the employment as the proximate
15 cause.
16 4. The disease does not come from a hazard to which workers would have
17 been equally exposed outside of the employment.
18 5. The disease is incidental to the character of the business and not
19 independent of the relation of employer and employee.
20 6. The disease after its contraction appears to have had its origin in
21 a risk connected with the employment, and to have flowed from that source as
22 a natural consequence, although it need not have been foreseen or expected.
23 B. Notwithstanding subsection A of this section and section
24 23-1043.01, any disease, infirmity or impairment of a firefighter's or peace
25 officer's health that is caused by brain, bladder, CERVICAL, TESTICULAR,
26 PROSTATE, rectal or colon cancer, lymphoma, leukemia or aden carcinoma or
27 mesothelioma of the respiratory tract and that results in disability or death
28 is presumed to be an occupational disease as defined in section 23-901,
29 paragraph 13, subdivision (c) and is deemed to arise out of employment. The
30 presumption is granted if all of the following apply:
31 1. The firefighter or peace officer passed a physical examination
32 before employment and the examination did not indicate evidence of cancer.
33 2. The firefighter or peace officer was assigned to hazardous duty for
34 at least five years.
35 3. The firefighter or peace officer was exposed to a known carcinogen
36 as defined by the international agency for research on cancer and informed
37 the department of this exposure, and the carcinogen is reasonably related to
38 the cancer.
39 C. Subsection B of this section applies to former firefighters and
40 peace officers who are sixty-five years of age or younger.
41 D. Subsection B of this section does not apply to cancers of the
42 respiratory tract if the firefighter or peace officer has smoked tobacco
43 products.

1 E. For the purposes of this section:

2 1. "Firefighter" means a full-time firefighter who was regularly
3 assigned to hazardous duty.

4 2. "Peace officer" means a full-time peace officer who was regularly
5 assigned to hazardous duty as a part of a special operations, special weapons
6 and tactics, explosive ordinance disposal or hazardous materials response
7 unit.