

By Senator Perry

8-00199-17

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1 A bill to be entitled

2 An act relating to workers' compensation benefits for
3 first responders; amending s. 112.1815, F.S.; deleting
4 provisions that limit certain workers' compensation
5 benefits for first responders; amending s. 440.093,
6 F.S.; providing that mental or nervous injuries of law
7 enforcement officers, firefighters, emergency medical
8 technicians, or paramedics are compensable under the
9 Workers' Compensation Law under specified conditions;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Paragraph (a) of subsection (2) of section
15 112.1815, Florida Statutes, is amended to read:

16 112.1815 Firefighters, paramedics, emergency medical
17 technicians, and law enforcement officers; special provisions
18 for employment-related accidents and injuries.—

19 (2) (a) For the purpose of determining benefits under this
20 section relating to employment-related accidents and injuries of
21 first responders, the following shall apply:

22 1. An injury or disease caused by the exposure to a toxic
23 substance is not an injury by accident arising out of employment
24 unless there is a preponderance of the evidence establishing
25 that exposure to the specific substance involved, at the levels
26 to which the first responder was exposed, can cause the injury
27 or disease sustained by the employee.

28 2. Any adverse result or complication caused by a smallpox
29 vaccination of a first responder is deemed to be an injury by
30 accident arising out of work performed in the course and scope
31 of employment.

32 3. A mental or nervous injury involving a first responder

8-00199-17

2017516__

33 and occurring as a manifestation of a compensable injury must be
34 demonstrated by clear and convincing evidence. ~~For a mental or~~
35 ~~nervous injury arising out of the employment unaccompanied by a~~
36 ~~physical injury involving a first responder, only medical~~
37 ~~benefits under s. 440.13 shall be payable for the mental or~~
38 ~~nervous injury. However, payment of indemnity as provided in s.~~
39 ~~440.15 may not be made unless a physical injury arising out of~~
40 ~~injury as a first responder accompanies the mental or nervous~~
41 ~~injury.~~ Benefits for a first responder are not subject to any
42 limitation on temporary benefits under s. 440.093 or the 1-
43 percent limitation on permanent psychiatric impairment benefits
44 under s. 440.15(3)(c).

45 Section 2. Section 440.093, Florida Statutes, is amended to
46 read:

47 440.093 Mental and nervous injuries.—

48 (1) Except as provided in subsection (4):

49 (a) A mental or nervous injury due to stress, fright, or
50 excitement only is not an injury by accident arising out of the
51 employment.

52 (b) ~~Nothing in~~ This section may not ~~shall~~ be construed to
53 allow for the payment of benefits under this chapter for mental
54 or nervous injuries without an accompanying physical injury
55 requiring medical treatment.

56 (c) A physical injury resulting from mental or nervous
57 injuries unaccompanied by physical trauma requiring medical
58 treatment is ~~shall~~ not be compensable under this chapter.

59 (2) Mental or nervous injuries occurring as a manifestation
60 of an injury compensable under this chapter shall be
61 demonstrated by clear and convincing medical evidence by a

8-00199-17

2017516__

62 licensed psychiatrist meeting criteria established in the most
63 recent edition of the diagnostic and statistical manual of
64 mental disorders published by the American Psychiatric
65 Association. Except as provided in subsection (4), the
66 compensable physical injury must be and remain the major
67 contributing cause of the mental or nervous condition and the
68 compensable physical injury as determined by reasonable medical
69 certainty must be at least 50 percent responsible for the mental
70 or nervous condition as compared to all other contributing
71 causes combined. Compensation is not payable for the mental,
72 psychological, or emotional injury arising out of depression
73 from being out of work or losing employment opportunities,
74 resulting from a preexisting mental, psychological, or emotional
75 condition or due to pain or other subjective complaints that
76 cannot be substantiated by objective, relevant medical findings.

77 (3) Subject to the payment of permanent benefits under s.
78 440.15, in no event shall temporary benefits for a compensable
79 mental or nervous injury be paid for more than 6 months after
80 the date of maximum medical improvement for the injured
81 employee's physical injury or injuries, which shall be included
82 in the period of 104 weeks as provided in s. 440.15(2) and (4).
83 Mental or nervous injuries are compensable only in accordance
84 with the terms of this section.

85 (4) A mental or nervous injury suffered by a law
86 enforcement officer, firefighter, emergency medical technician,
87 or paramedic is compensable under this chapter, whether or not
88 the mental or nervous injury is accompanied by physical injury
89 requiring medical treatment, if the mental or nervous injury is
90 demonstrated by clear and convincing medical evidence by a

8-00199-17

2017516__

91 licensed psychiatrist to meet the criteria for posttraumatic
92 stress disorder as described in the most recent edition of the
93 Diagnostic and Statistical Manual of Mental Disorders published
94 by the American Psychiatric Association and if the mental or
95 nervous injury arose out of an activity performed within the
96 course of employment as described in s. 440.091.

97 Section 3. This act shall take effect July 1, 2017.