

Assembly Bill No. 2052

Passed the Assembly August 25, 2014

Chief Clerk of the Assembly

Passed the Senate August 21, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 3212.1, 3212.5, 3212.6, 3212.85, and 3212.9 of, and to repeal and add Section 3212 of, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2052, Gonzalez. Workers' compensation.

Existing law establishes a workers' compensation system to compensate an employee for injuries arising out of, and in the course of, his or her employment. Existing law designates illnesses and conditions that constitute a compensable injury for various employees, such as California Highway Patrol members, firefighters, and certain peace officers. These injuries include, but are not limited to, hernia, pneumonia, heart trouble, cancer, meningitis, and exposure to a biochemical substances when the illness or condition develops or manifests itself during a period when the officer or employee is in service of his or her employer, as specified.

This bill would expand the coverage of the above provisions relating to compensable injury, to include other, full-time peace officers described pursuant to specified provisions of law.

The people of the State of California do enact as follows:

SECTION 1. Section 3212 of the Labor Code is repealed.

SEC. 2. Section 3212 is added to the Labor Code, to read:

3212. (a) As used in this act, the term "injury" includes both of the following:

(1) With respect to the following members, a hernia, when any part of the hernia develops or manifests itself during a period while the member is in the service in the office, staff, division, department, or unit:

(A) Members of a sheriff's office or the California Highway Patrol, district attorney's staff of inspectors and investigators or of police or fire departments of cities, counties, cities and counties, districts or other public or municipal corporations or political

subdivisions, whether those members are volunteer, partly paid, or fully paid.

(B) Active firefighting members of the Department of Forestry and Fire Protection whose duties require firefighting or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid.

(C) Members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, except those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service, such as stenographers, telephone operators, and other officeworkers.

(D) Regular salaried county or city and county peace officers.

(E) Full-time peace officers, other than those described in subparagraph (A) or (D), as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(2) With respect to the following members, pneumonia and heart trouble that develops or manifests itself during a period while the member is in the service of the department:

(A) Members of fire departments, except those whose principal duties are clerical, such as stenographers, telephone operators, and other officeworkers.

(B) Members of county forestry or firefighting departments, except those whose principal duties are clerical, such as stenographers, telephone operators, and other officeworkers.

(C) Active firefighting members of the Department of Forestry and Fire Protection whose duties require firefighting.

(D) Members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, except those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service such as stenographers, telephone operators, and other officeworkers.

(b) The compensation that is awarded for the hernia, heart trouble, or pneumonia shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by the workers' compensation laws of this state.

(c) Hernia, heart trouble, or pneumonia developing or manifesting as described in this section shall be presumed to arise out of and in the course of employment. This presumption is

disputable and may be controverted by other evidence, but unless controverted by other evidence, the appeals board is bound to find in accordance with it. The presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(d) Hernia, heart trouble, or pneumonia developing or manifesting as described in this section shall not be attributed to any disease existing prior to that development or manifestation.

SEC. 3. Section 3212.1 of the Labor Code is amended to read:

3212.1. (a) This section applies to all of the following:

(1) Active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.

(2) Active firefighting members of a fire department that serves a United States Department of Defense installation and who are certified by the Department of Defense as meeting its standards for firefighters.

(3) Active firefighting members of a fire department that serves a National Aeronautics and Space Administration installation and who adhere to training standards established in accordance with Article 4 (commencing with Section 13155) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code.

(4) Part-time and full-time peace officers and officers as described in Section 830.1, subdivision (a) of Section 830.2, and subdivisions (a) and (b) of Section 830.37, and full-time peace officers described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(5) (A) Fire and rescue services coordinators who work for the Office of Emergency Services.

(B) For purposes of this paragraph, “fire and rescue services coordinators” means coordinators with any of the following job classifications: coordinator, senior coordinator, or chief coordinator.

(b) The term “injury,” as used in this division, includes cancer, including leukemia, that develops or manifests itself during a period in which a person described in subdivision (a) is in the service of the department or unit, if the person demonstrates that he or she was exposed, while in the service of the department or unit, to a known carcinogen as defined by the International Agency for Research on Cancer, or as defined by the director.

(c) The compensation that is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the person has demonstrated exposure is not reasonably linked to the disabling cancer. Unless so controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a person following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 120 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(e) The amendments to this section enacted during the 1999 portion of the 1999–2000 Regular Session shall be applied to claims for benefits filed or pending on or after January 1, 1997, including, but not limited to, claims for benefits filed on or after that date that have previously been denied, or that are being appealed following denial.

(f) This section shall be known, and may be cited, as the William Dallas Jones Cancer Presumption Act of 2010.

SEC. 4. Section 3212.5 of the Labor Code is amended to read:

3212.5. In the case of a peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when the person is employed upon a regular, full-time salary, the term “injury” as used in this division includes heart trouble and pneumonia which develops or manifests itself during a period while the person is in the service the compensation that is awarded for heart trouble or pneumonia as described in this section shall include full hospital, surgical, medical treatment, disability

indemnity, and death benefits as provided by the provisions of this division.

(a) The heart trouble or pneumonia so developing or manifesting itself shall be presumed to arise out of and in the course of the employment; provided, however, that the person shall have served five years or more in that capacity before the presumption shall arise as to the compensability of heart trouble so developing or manifesting itself. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a person following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(b) The heart trouble or pneumonia so developing or manifesting itself in these cases shall in no case be attributed to any disease existing prior to its development or manifestation.

SEC. 5. Section 3212.6 of the Labor Code is amended to read:

3212.6. (a) (1) In the case of a peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a prison or jail guard or correctional officer who is employed by a public agency, when that person is employed upon a regular, full-time salary, or in the case of a member of a fire department of any city, county, or district, or other public or municipal corporations or political subdivisions, when that person is employed on a regular fully paid basis, and in the case of an active firefighting member of the Department of Forestry and Fire Protection whose duties require firefighting and first aid response services, or of any county forestry or firefighting department or unit, if that person is employed on a regular fully paid basis, except persons whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement, firefighting, or emergency first aid response service such as stenographers, telephone operators, and other officeworkers, the term “injury” includes tuberculosis that develops or manifests itself during a period while that member is in the service of that department or office. The compensation that is awarded for the tuberculosis shall include full hospital, surgical, medical treatment, disability

indemnity, and death benefits as provided by the provisions of this division.

(2) The tuberculosis developing or manifesting itself as described in paragraph (1) shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a person described in paragraph (1) following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(b) A public entity may require applicants for employment in firefighting positions who would be entitled to the benefits granted by this section to be tested for infection for tuberculosis.

SEC. 6. Section 3212.85 of the Labor Code is amended to read:

3212.85. (a) This section applies to a full-time or part-time peace officer described in Sections 830.1 to 830.5, inclusive, of Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, any other full-time peace officer described in that chapter, and a member of a fire department.

(b) The term “injury,” as used in this division, includes illness or resulting death due to exposure to a biochemical substance that develops or occurs during a period in which a person described in subdivision (a) is in the service of the department or unit.

(c) The compensation that is awarded for injury pursuant to this section shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) The injury that develops or manifests itself in these cases shall be presumed to arise out of, and in the course of, the employment. This presumption is disputable and may be controverted by other evidence. Unless controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a person described in subdivision (a) following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(e) For purposes of this section, the following definitions apply:

(1) “Biochemical substance” means any biological or chemical agent that may be used as a weapon of mass destruction, including, but not limited to, any chemical warfare agent, weaponized biological agent, or nuclear or radiological agent, as these terms are defined in Section 11417 of the Penal Code.

(2) “Member of a fire department” includes, but is not limited to, an apprentice, volunteer, partly paid, or fully paid member of any of the following:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.

SEC. 7. Section 3212.9 of the Labor Code is amended to read:

3212.9. In the case of a peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that person is employed on a regular, full-time salary, or in the case of a member of a fire department of any city, county, or district, or other public or municipal corporation or political subdivision, or any county forestry or firefighting department or unit, when the person is employed on a regular full-time salary, except persons whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement or firefighting, such as stenographers, telephone operators, and other officeworkers, the term “injury” includes meningitis that develops or manifests itself during a period while that person is in the service of that department, office, or unit. The compensation that is awarded for the meningitis shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by the provisions of this division.

The meningitis so developing or manifesting itself shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a person following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

Approved _____, 2014

Governor