

HOUSE BILL 138

Introduced by Driscoll, et al.

1/11	Introduced
1/11	Referred to Labor & Employment Relations
1/11	First Reading
1/14	Hearing
1/26	Committee Report--Bill Not Passed
1/28	Adverse Committee Report Adopted

1 House BILL NO. 138  
2 INTRODUCED BY \_\_\_\_\_  
3 Wyatt  
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING WORKERS'  
5 COMPENSATION AND OCCUPATIONAL DISEASE COVERAGE TO INCLUDE  
6 CERTAIN PAID FIREFIGHTERS WHO CONTRACT CARDIOVASCULAR,  
7 PULMONARY, OR RESPIRATORY DISEASES AS A RESULT OF EXPOSURE  
8 TO HEAT, SMOKE, CHEMICAL FUMES, OR OTHER TOXIC GASES DURING  
9 THE COURSE OF THEIR EMPLOYMENT; AND AMENDING SECTIONS  
10 39-71-119 AND 39-72-102, MCA."  
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 39-71-119, MCA, is amended to read:

14 "39-71-119. Injury and accident defined. (1) "Injury"  
15 or "injured" means:

16 (a) internal or external physical harm to the body;  
17 (b) damage to prosthetic devices or appliances, except  
18 for damage to eyeglasses, contact lenses, dentures, or  
19 hearing aids; or

20 (c) death.

21 (2) An injury is caused by an accident. An accident is:

22 (a) an unexpected traumatic incident or unusual strain;

23 (b) identifiable by time and place of occurrence;

24 (c) identifiable by member or part of the body  
25 affected; and

1 (d) caused by a specific event on a single day or  
2 during a single work shift.

3 (3) "Injury" or "injured" does not mean a physical or  
4 mental condition arising from:

5 (a) emotional or mental stress; or

6 (b) a nonphysical stimulus or activity.

7 (4) "Injury" or "injured" does not include a disease  
8 that is not caused by an accident.

9 (5) A Except as provided in subsection (6),  
10 cardiovascular, pulmonary, respiratory, or other disease,  
11 cerebrovascular accident, or myocardial infarction suffered  
12 by a worker is an injury only if the accident is the primary  
13 cause of the physical harm in relation to other factors  
14 contributing to the physical harm.

15 (6) A cardiovascular, pulmonary, or respiratory disease  
16 contracted by a paid firefighter employed by a municipality,  
17 town, or fire district as a regular member of a lawfully  
18 established fire department is an injury if the disease is  
19 caused by:

20 (a) overexertion in times of stress or danger in the  
21 course of the firefighter's employment due to proximate  
22 exposure to heat, smoke, chemical fumes, or other toxic  
23 gases; or

24 (b) cumulative exposure over a period of 4 years or  
25 more to heat, smoke, chemical fumes, or other toxic gases."

**Section 2.** Section 39-72-102, MCA, is amended to read:

"39-72-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Beneficiary" is as defined in 39-71-116.

(2) "Child" is as defined in 39-71-116.

(3) "Department" means the department of labor and industry.

(4) "Disablement" means the event of becoming physically incapacitated by reason of an occupational disease from performing work in the worker's job pool. Silicosis, when complicated by active pulmonary tuberculosis, is presumed to be total disablement. "Disability", "total disability", and "totally disabled" are synonymous with "disablement", but they have no reference to "permanent partial disability".

(5) "Employee" is as defined in 39-71-118.

(6) "Employer" is as defined in 39-71-117.

(7) "Independent contractor" is as defined in 39-71-120.

(8) "Insurer" is as defined in 39-71-116.

(9) "Invalid" is as defined in 39-71-116.

(10) "Occupational disease" means harm, damage, or death as set forth in 39-71-119(1) and (6) arising out of or contracted in the course and scope of employment and caused

by events occurring on more than a single day or work shift. The term does not include a physical or mental condition arising from emotional or mental stress or from a nonphysical stimulus or activity.

(11) "Order" is as defined in 39-71-116.

(12) "Pneumoconiosis" means a chronic dust disease of the lungs arising out of employment in coal mines and includes anthracosis, coal workers' pneumoconiosis, silicosis, or anthracosilicosis arising out of such employment.

(13) "Silicosis" means a chronic disease of the lungs caused by the prolonged inhalation of silicon dioxide (SiO<sub>2</sub>) and characterized by small discrete nodules of fibrous tissue similarly disseminated throughout both lungs, causing the characteristic x-ray pattern, and by other variable clinical manifestations.

(14) "Wages" is as defined in 39-71-123.

(15) "Year" is as defined in 39-71-116."

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