

DRAFT COVID-19 PRESUMPTION LEGISLATION

A BILL FOR AN ACT

Relating to workers' compensation creating a presumption for occupational diseases that certain workers suffer as a result of exposures relating to COVID-19; amending ORS 656.802, effective upon signature of the Governor.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 656.802 is amended to read:

656.802. (1)(a) As used in this chapter, "occupational disease" means

(A) Any disease or infection caused by ingestion of, absorption of, inhalation of or contact with dust, fumes, vapors, gases, radiation or other substances, **including viruses causing COVID-19.**

(8)(a) As used in this subsection:

(A) "COVID-19" has the meaning of the disease as defined by federal or state health authorities;

(B) "Virus causing COVID-19" has the meaning of a virus as defined by federal or state health authorities;

(C) "Covered Employee" means an "Essential Worker" as defined in this subsection;.

(D) "Essential Worker" has the meaning of an employee allowed or required to continue working on-site consistent with Executive Order 20-12, dated March 23, 2020, or other such executive order of the Governor.

(b) Any resulting death, disability, or impairment of health, including any time loss due to being quarantined from work by an employer, medical provider or health authority, or medical treatment or services, including diagnostic or preventive medical treatment or services, of the covered employee shall be presumed to be compensable as an occupational disease, if the covered employee:

(A) Is quarantined at the direction of the employer, or a medical provider, or state or federal health authority due to confirmed or suspected exposure to COVID-19 or the virus causing COVID-19; or

(B) Receives a diagnosis of COVID-19 from a medical provider or state or federal health authority; or

(C) Receives a presumptive positive COVID-19 test; or

(D) Receives a laboratory-confirmed COVID-19 diagnosis.

(c) An insurer or self-insured employer may rebut the presumption under paragraph (b) of this subsection only by clear and convincing evidence that the covered employee does not meet the requirements of paragraph (b) of this subsection.

(d) An insurer or self-insured employer may deny a claim under paragraph (b) of this subsection only on the basis of clear and convincing evidence that the covered employee does not meet the requirements of paragraph (b) of this subsection.

(e) Notwithstanding ORS 656.027(6), a city that provides a disability or retirement system for firefighters and police officers by ordinance or charter that is not subject to this chapter, when accepting and processing claims for firefighters and police officers covered by the disability or retirement system, shall apply:

(A) The provisions of this subsection; and

(B) For claims filed under this subsection, the time limitations for filing claims that are set forth in ORS 656.807 (1) and (2).