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SENATE BILL NO. 361

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 65.2-104 of the Code of Virginia, relating to workers' compensation coverage for first responders during a state of emergency.

Patrons—Edwards; Delegates: Caputo and Englin

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-104 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-104. Coverage of first responders in off-duty capacity during state of emergency.

A. Notwithstanding any other provision of law, if the Governor declares a state of emergency pursuant to the provisions of Chapter 3.2 (§ 44-146.13 et seq.) of Title 44, or any local director of emergency management with the consent of the appropriate local governing body declares an emergency pursuant to § 44-146.16, attributable to an enemy attack, sabotage or other hostile action, resource shortage, or fire, flood, earthquake or other natural cause, a claim for workers' compensation benefits shall be deemed to be in the course of employment of any first responder who, in response to a lawful order issued pursuant to the state of emergency, travels by the most expeditious route to or from his home or other location outside an assigned shift or work location to or from that shift or work location. Nothing in this section shall prohibit an employer from using any defense otherwise available under this title.

B. For purposes of this section, "first responder" shall include any person referenced in subdivision 1 of the definition of "employee" in § 65.2-101 who provides emergency services, during the period that the states of emergency defined in subsection A are in effect.

C. *The duty of the employer to furnish or cause to be furnished a physician and other necessary medical attention with respect to a first responder's claim for workers' compensation benefits described in subsection A shall not be subject to the provision in subdivision A 1 of § 65.2-603 that the physician be chosen by the injured employee from a panel of at least three physicians selected by the employer. A first responder injured during a state of emergency described in subsection A shall be taken forthwith to any available health care facility and be furnished prompt and competent medical treatment at the expense of the employer, subject to any other defenses under this title.*

D. *If a first responder (i) is a person entitled to invoke a presumption pursuant to § 65.2-402 or 65.2-402.1, (ii) becomes ill due to an exposure to a radioactive, chemical or biologic agent, and (iii) thereafter transmits the illness to an immediate family member residing in such first responder's immediate household, such family member shall be entitled to medical care pursuant to § 65.2-603 from the employer that is obligated to furnish medical care to the first responder for the illness resulting from his exposure to the radioactive, chemical or biologic agent. The Commission shall designate all such first reports of injuries and awards with the suffix "ES."*

INTRODUCED

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