

1 **COVID-19 WORKERS' COMPENSATION AMENDMENTS FOR**
2 **FIRST RESPONDERS**

3 2020 THIRD SPECIAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Francis D. Gibson**

6 Senate Sponsor: Kirk A. Cullimore

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Workers' Compensation Act to provide workers' compensation
11 under certain circumstances to first responders who contract COVID-19.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ establishes, under certain circumstances, a rebuttable presumption that a first
16 responder who contracts COVID-19 contracted COVID-19 by accident during the
17 course of performing the first responder's duties as a first responder;
- 18 ▶ establishes a presumed date of accident for a first responder making a workers'
19 compensation claim related to COVID-19;
- 20 ▶ establishes an amount of benefits for a first responder who provides first responder
21 services for minimal or no compensation or on a volunteer basis; and
- 22 ▶ grants the Labor Commission rulemaking authority.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **34A-2-1101**, Utah Code Annotated 1953

- 30 [34A-2-1102](#), Utah Code Annotated 1953
- 31 [34A-2-1103](#), Utah Code Annotated 1953
- 32 [34A-2-1104](#), Utah Code Annotated 1953
- 33 [34A-2-1105](#), Utah Code Annotated 1953
- 34 [34A-2-1106](#), Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **34A-2-1101** is enacted to read:

38 **Part 11. Presumptions for First Responders**

39 **34A-2-1101. Definitions.**

40 (1) As used in this part:

41 (a) "COVID-19" means the disease caused by severe acute respiratory syndrome
42 coronavirus 2.

43 (b) "First responder" means:

44 (i) an emergency responder as defined in 29 C.F.R. Part 826, Subpart C; or

45 (ii) a health care provider as defined in 29 C.F.R. Part 826, Subpart C.

46 (c) "Physician" means an individual licensed under:

47 (i) Title 58, Chapter 67, Utah Medical Practice Act;

48 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

49 (iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or

50 (iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered
51 nurse.

52 (2) For purposes of this part, an individual is diagnosed with COVID-19 if the
53 individual:

54 (a) through laboratory testing of a specimen the individual provides, tests positive for
55 the virus that causes COVID-19; and

56 (b) is diagnosed with COVID-19 by a physician.

57 Section 2. Section **34A-2-1102** is enacted to read:

58 **34A-2-1102. Workers' compensation presumption for first responders.**

59 (1) A first responder who claims to have contracted COVID-19 during the performance
60 of the first responder's duties as a first responder, is presumed to have contracted COVID-19 by
61 accident during the course of performing the first responder's duties as a first responder if the
62 first responder is diagnosed with COVID-19:

63 (a) while employed or serving as a first responder; or

64 (b) if the first responder's employment or service as a first responder terminates, within
65 two weeks after the day on which the first responder's employment or service terminates.

66 (2) A first responder who makes a claim under this part shall provide a copy of the
67 positive laboratory test or the written documentation of a physician's diagnosis to the first
68 responder's employer or insurer.

69 Section 3. Section **34A-2-1103** is enacted to read:

70 **34A-2-1103. Workers' compensation claims.**

71 (1) This part applies to a claim resulting from an accident arising out of and in the
72 course of a first responder's employment or service on or after March 21, 2020, and before June
73 1, 2021.

74 (2) For purposes of establishing a workers' compensation claim under this part, the
75 "date of accident" is presumed to be the earlier of the day on which:

76 (a) the first responder is diagnosed with COVID-19;

77 (b) the first responder is unable to work because of a symptom of a disease that is later
78 diagnosed as COVID-19; or

79 (c) the first responder's employment or service as a first responder terminates, if the
80 first responder is diagnosed with COVID-19 within two weeks after the day on which the first
81 responder's employment or service as a first responder terminates.

82 (3) Death benefits payable under this chapter are payable only if a claimant establishes
83 by competent evidence that death was a consequence of or a result of COVID-19.

84 Section 4. Section **34A-2-1104** is enacted to read:

85 **34A-2-1104. Failure to be tested -- Rebuttable presumption.**

86 (1) A first responder who refuses examination for COVID-19 or fails to be diagnosed
87 with COVID-19 is not entitled to the presumption established under this part.

88 (2) The presumption established in this part may be rebutted by a preponderance of the
89 evidence.

90 Section 5. Section 34A-2-1105 is enacted to read:

91 **34A-2-1105. Determining employers of first responders -- Volunteer first**
92 **responders -- Workers' compensation premiums.**

93 (1) For purposes of receiving workers' compensation benefits, a first responder
94 performing the services of a first responder is considered an employee of an entity for whom
95 the first responder provides those services.

96 (2) (a) A first responder who only performs the services of a first responder for
97 minimal or no compensation or on a volunteer basis receives an amount of workers'
98 compensation:

99 (i) based on the first responder's primary employment, if the first responder is primarily
100 employed other than as a first responder; or

101 (ii) that is the minimum benefit, if the first responder has no employment other than as
102 a first responder.

103 (b) An entity for whom a first responder provides first responder services for minimal
104 or no compensation or on a volunteer basis shall:

105 (i) pay any excess premium necessary for workers' compensation, if the first responder
106 is primarily employed other than as a first responder; and

107 (ii) pay any premium necessary for workers' compensation, if the first responder has no
108 employment other than as a first responder.

109 (3) A first responder is not precluded from utilizing insurance a primary employer
110 provides, or any other insurance benefits, in addition to workers' compensation benefits.

111 Section 6. Section 34A-2-1106 is enacted to read:

112 **34A-2-1106. Construction -- Rulemaking authority.**

113 (1) This part supersedes any conflicting provisions of Utah law.

114 (2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
115 Administrative Rulemaking Act, to carry out the provisions of this part.

116 Section 7. **Effective date.**

117 If approved by two-thirds of all the members elected to each house, this bill takes effect
118 upon approval by the governor, or the day following the constitutional time limit of Utah
119 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
120 the date of veto override.