~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 27, 2013

**H. 3147**

Introduced by Reps. Pope, Tallon, Southard and V.S. Moss

S. Printed 2/27/13--H.

Read the first time January 8, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3147) to amend Section 42‑1‑160, as amended, Code of Laws of South Carolina, 1976, relating the definitions of “injury” and “personal injury”, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 42‑1‑160 of the 1976 Code, as last amended by Act 111 of 2007, is further amended to read:

“Section 42‑1‑160. (A) ‘Injury’ and ‘personal injury’ mean only injury by accident arising out of and in the course of employment and shall not include a disease in any form, except when it results naturally and unavoidably from the accident and except such diseases as are compensable under the provisions of Chapter 11 of this title. In construing this section, an accident arising out of and in the course of employment includes employment of an employee of a municipality outside the corporate limits of the municipality when the employment was ordered by a duly authorized employee of the municipality.

(B) Stress, mental injuries, and mental illness arising out of and in the course of employment unaccompanied by physical injury and resulting in mental illness or injury are not considered a personal injury unless the employee establishes, by a preponderance of the evidence~~:~~,

(1) that the employee’s employment conditions causing the stress, mental injury, or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and

(2) the medical causation between the stress, mental injury, or mental illness, and the stressful employment conditions by medical evidence.

(C) The provisions of subsection (B)(1) do not apply, however, if the employment causing the stress, mental injury, or mental illness occurred under the following conditions:

(1) the employee is employed as a fire fighter, law enforcement officer, emergency medical technician, or correctional officer; and

(2) the conditions giving rise to the stress, mental injury, or mental illness occur while the employee is engaged in an event or series of events that are part of the employee’s employment.

(~~C~~D) Stress, mental injuries, heart attacks, strokes, embolisms, or aneurisms arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer/employee relations including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations, except when these actions are taken in an extraordinary and unusual manner.

(~~D~~E) Stress, mental injuries, and mental illness alleged to have been aggravated by a work‑related physical injury may not be found compensable unless the aggravation is:

(1) admitted by the employer/carrier;

(2) noted in a medical record of an authorized physician that, in the physician’s opinion, the condition is at least in part causally‑related or connected to the injury or accident, whether or not the physician refers the employee for treatment of the condition;

(3) found to be causally‑related or connected to the accident or injury after evaluation by an authorized psychologist or psychiatrist; or

(4) noted in a medical record or report of the employee’s physician as causally‑related or connected to the injury or accident.

(~~E~~F) In medically complex cases, an employee shall establish by medical evidence that the injury arose in the course of employment. For purposes of this subsection, ‘medically complex cases’ means sophisticated cases requiring highly scientific procedures or techniques for diagnosis or treatment excluding MRIs, CAT scans, x‑rays, or other similar diagnostic techniques.

(~~F~~G) The word ‘accident’ as used in this title must not be construed to mean a series of events in employment, of a similar or like nature, occurring regularly, continuously, or at frequent intervals in the course of such employment, over extended periods of time. Any injury or disease attributable to such causes must be compensable only if culminating in a compensable repetitive trauma injury pursuant to Section 42‑1‑172 or an occupational disease pursuant to the provisions of Chapter 11 of this title.

(~~G~~H) As used in this section, ‘medical evidence’ means expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed health care provider.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 42‑1‑160, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING THE DEFINITIONS OF “INJURY” AND “PERSONAL INJURY” IN WORKERS’ COMPENSATION, SO AS TO MODIFY THE REQUIREMENTS OF AN EMPLOYEE SEEKING WORKERS’ COMPENSATION FOR PERSONAL INJURY CAUSED BY STRESS, MENTAL INJURY, OR MENTAL ILLNESS, AND TO ADD MENTAL ILLNESS TO RELATED CONDITIONS THAT ARE NOT COMPENSABLE IF RESULTING FROM AN EVENT INCIDENTAL TO NORMAL RELATIONS BETWEEN AN EMPLOYEE AND EMPLOYER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Sections 42‑1‑160(B) and (C) of the 1976 Code, as last amended by Act 111 of 2007, are further amended to read:

“(B) Stress, mental injuries, and mental illness arising out of and in the course of employment unaccompanied by physical injury and resulting in mental illness or injury are not considered a personal injury unless the employee establishes, by a preponderance of the evidence~~:~~,

~~(1) that the employee’s employment conditions causing the stress, mental injury, or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and~~

~~(2) the~~ medical causation between the:

(1) stress, mental injury, or mental illness~~,~~; and ~~the~~

(2) stressful employment conditions ~~by medical evidence~~.

(C) Stress, mental injuries, mental illness, heart attacks, strokes, embolisms, or aneurisms arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer/employee relations including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations, except when these actions are taken in an extraordinary and unusual manner.”

SECTION 2. This act takes effect upon approval by the Governor.

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