

1 Introduced by Committee on Commerce and Economic Development

2 Date:

3 Subject: Labor; employers' liability and workers' compensation; COVID-19

4 Statement of purpose of bill as introduced: This bill proposes to grant the
5 Commissioner of Labor temporary authority during a declared state of
6 emergency related to COVID-19 to amend or waive certain requirements and
7 deadlines under the workers' compensation laws and to provide a presumption
8 that certain workers who are diagnosed with COVID-19 are entitled to
9 workers' compensation for the disease.

10 An act relating to temporary workers' compensation amendments related to
11 COVID-19

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. WORKERS' COMPENSATION; ADMINISTRATIVE

14 FLEXIBILITY; TEMPORARY AUTHORITY

15 (a) In order to effectuate the remedial purpose of Vermont's Workers'
16 Compensation law and to ensure that injured workers are able to obtain the
17 workers' compensation benefits they are entitled to, the Commissioner shall,
18 during a declared state of emergency related to COVID-19, have authority to
19 issue guidance and adopt procedures to extend deadlines or temporarily amend

1 or waive specific requirements of 21 V.S.A. chapter 9 and the rules adopted
2 pursuant to that chapter.

3 (b) Any guidance or procedures that are issued or adopted by the
4 Commissioner pursuant to this section shall be effective during the state of
5 emergency in which they are adopted, and the Commissioner shall establish a
6 procedure to transition those claims impacted by the emergency to preexisting
7 rules within 45 days after the termination of the state of emergency.

8 (c) The Commissioner shall post any guidance issued or procedure adopted
9 pursuant to this section on the Department’s website and shall make reasonable
10 efforts to provide prompt notice of the guidance or procedure to employers,
11 attorneys, and employee organizations.

12 (d) The Commissioner shall not be required to initiate rulemaking pursuant
13 to 3 V.S.A. § 831(c) in relation to any guidance issued or procedure adopted
14 pursuant to this section.

15 Sec. 2. COVID-19; PRESUMPTION OF COMPENSABILITY

16 (a)(1) In the case of a front-line worker, disability or death resulting from
17 COVID-19 shall be presumed to be compensable pursuant to 21 V.S.A.
18 chapter 9, provided that the front-line worker receives a positive laboratory test
19 or a diagnosis by a licensed healthcare provider for COVID-19 between
20 March 1, 2020 and January 15, 2021.

21 (2) As used in this subsection, “front-line worker” means:

- 1 (A) a firefighter as defined in 20 V.S.A. § 3151(3) and (4);
- 2 (B) a law enforcement officer who has been certified by the Vermont
3 Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151;
- 4 (C) an ambulance service, emergency medical personnel, first
5 responder service, and volunteer personnel as defined in 24 V.S.A. § 2651;
- 6 (D) a worker in a health care facility or in an institution or office
7 where health care services are provided by licensed healthcare professionals;
- 8 (E) a correctional officer;
- 9 (F) a worker in a long-term care facility or residential care facility;
- 10 (G) a childcare provider who is required to provide childcare to the
11 children of other front-line workers pursuant to Executive Order 01-20;
- 12 (H) a home health care worker or personal care attendant;
- 13 (I) a worker in a morgue, funeral establishment, or crematory facility;
- 14 and
- 15 (J) a worker performing services that the Commissioner determines
16 place the worker at a similarly elevated risk of being exposed to or contracting
17 COVID-19 as the other occupations listed in this subsection (a).
- 18 (b) For an employee who is not a front-line worker as defined in
19 subdivision (a)(2) of this section, disability or death resulting from COVID-19
20 shall be presumed to be compensable pursuant to 21 V.S.A. chapter 9 if the
21 employee receives a positive laboratory test or a diagnosis by a licensed

1 health care provider for COVID-19 between March 1, 2020 and January 15,
2 2021 and, not more than 14 days prior to the date on which the employee is
3 tested or examined, either:

4 (1) had documented occupational exposure in the course of employment
5 to an individual with COVID-19; or

6 (2) performed services at a residence or facility with one or more
7 residents or employees who:

8 (A) were present at the time the services were performed; and either

9 (B)(i) had COVID-19 at that time; or

10 (ii) were diagnosed with COVID-19 within a reasonable period of
11 time after the services were performed.

12 (c)(1) The presumption of compensability in subsection (a) of this section
13 shall not apply if it is shown by a preponderance of the evidence that the
14 disease was caused by non-employment-connected risk factors or non-
15 employment-connected exposure.

16 (2) The presumption of compensability in subsection (b) of this section
17 shall not apply if the employer can show by a preponderance of the evidence
18 that:

19 (A) the disease was caused by non-employment-connected risk
20 factors or non-employment-connected exposure; or

1 (B) at the time the employee was potentially exposed to COVID-19,
2 the employee’s place of employment was in compliance with the Guidance on
3 Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety
4 and Health Administration (OSHA) or any similar guidance issued by OSHA,
5 the U.S. Centers for Disease Control, or the Vermont Department of Health.

6 (d) The Commissioner shall not be required to initiate rulemaking pursuant
7 to 3 V.S.A. § 831(c) in relation to any guidance issued or procedure adopted in
8 relation to this section.

9 Sec. 3. PROSPECTIVE REPEAL

10 In the absence of legislative action to the contrary, Secs. 1 and 2 of this act
11 are repealed on January 15, 2021.

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on passage.