SPONSOR: Sen. Poore & Sen. Ennis & Rep. Mitchell & Rep. Carson
Sens. Mantzavinos, Paradee, Walsh, Wilson; Reps. Baumbach, Gray, K. Williams

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 160

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE AND LINE-OF-DUTY DISABILITY POLICIES FOR CERTAIN EMERGENCY RESPONDERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 67B. Line-of-Duty Disability Policies for Certain Emergency Responders

§ 6701B. Definitions.

As used in this chapter, the following words and terms have the following meanings:

(1) "Active" means either of the following:

a. A paid service member who has worked at least 1,250 hours within the previous 12-month period.

b. A volunteer member with Active status as defined by his or her individual fire or emergency service company.

(2) "Advanced stage cancer" means a diagnosis by a board certified physician in the medical specialty appropriate for the type of cancer diagnosed that there are 1 or more malignant tumors characterized by the uncontrollable and abnormal growth and spread of malignant cells with invasion of normal tissue and that:

a. There is metastasis; and

1. Surgery, radiotherapy, or chemotherapy is medically necessary; or

2. There is a tumor of the prostate, provided that it is treated with radical prostatectomy or external beam therapy; or

3. The member has terminal cancer, their life expectancy is 24 months or less from the date of diagnosis, and will not benefit from, or has exhausted, curative therapy.

(3) "Cancer" means a malignant tumor characterized by the uncontrolled and abnormal growth and spread of malignant cells and invasion of normal tissue. This includes bladder, blood, brain, breast, cervical, esophageal, intestinal, kidney, lymphatic, lung, prostate, rectal, respiratory tract, skin, testicular, and thyroid cancer; leukemia, multiple myeloma; or non-Hodgkin's lymphoma.

(4) “Early stage cancer” means a diagnosis by a board certified physician in the medical specialty appropriate for the type of cancer involved in that:

a. There is carcinoma in situ such that surgery, radiotherapy, or chemotherapy has been determined to be medically necessary;

b. There are malignant tumors which are treated by endoscopic procedures alone; or

c. There are malignant melanomas.

(5) “Emergency medical technician” means a person trained, and currently certified by the State Fire Prevention Commission, in emergency medical care procedures through a course that meets the objectives of the national scope of practice and maintains Delaware certification, who is faithfully and actually performing service in the State of Delaware.

(6) “Faithful and Actual Service” (or any derivative thereof) means participation in the activities of a legally organized volunteer Fire, Ambulance, or EMS Department or Company, Fire School, or State Fire Marshal, or Fire Police or Paramedic Service.

(7) “Fire Company” means a company in the State of Delaware comprised of volunteer firefighters, fire police, paid employees of volunteer fire companies, volunteer ambulance companies, volunteer ambulance company members, paid employees of volunteer ambulance companies, and firefighters who are a part of an all paid force.

(8) “Fire Department” means a department in the State of Delaware comprised of volunteer firefighters, fire police, paid employees of volunteer fire companies, volunteer ambulance companies, volunteer ambulance company members, paid employees of volunteer ambulance companies, and firefighters who are a part of an all paid force.

(9) “Fire Instructor” means an individual who actively teaches and holds a certificate to teach firefighter training courses, issued by and employed by the Delaware State Fire School.

(10) “Fire Marshal” means a person who is an official responsible for enforcing fire regulations or investigating fires in the State of Delaware under § 6612 of Title 16.

(11) “Fire Police” means a member of a fire company who has taken the oath to perform police duties at fires, fire drills, and any emergencies or functions covered by the fire company.

(12) “Fit Test” means the self-contained breathing apparatus fit test conducted yearly pursuant to requirements of 29 CFR 1901.134 for an immediately dangerous to life and health atmosphere.

(13) “Paid Firefighter” means a person who has been approved by the Delaware Fire School as a firefighter, as evidenced by an annual fit test, and who is faithfully and actually performing service in the protection of life and

property from fire or other emergency, accident, or calamity in connection with which the service of the Fire Department or Company is required.

(14) "Paramedic" means a person who is employed by a county paramedic service as defined in § 9802(7) of Title 16, has been approved by the National Registry of Emergency Medical Technicians or the Commission on Accreditation of Allied Health Education Programs (CAAHEP), maintains Delaware certification, and is faithfully and actually performing service in the State of Delaware.

(15) "Policy" means a contract between the insurer and the insured which determines the claims which the insurer is legally required to pay based on the benefits outlined in § 6702B of this title.

(16) "Total Disability" means a disability caused by cancer, that prevents an eligible member from being able to perform the substantial and material duties under the class in which they have applied for the benefits.

(17) "Volunteer Firefighter" means a firefighter who is faithfully and actually performing service in the protection of life and property from fire or other emergency, accident, or calamity in connection with which the service of the Fire Department or Company is required.

(18) "Years of Service" means the years that the Active member serves. If the Active member serves in multiple classifications at the same time, the time will only be counted once.

§ 6702B. Benefits.

A policy shall be purchased by the Insurance Coverage Office on behalf of those who are eligible under § 6703B of this title for the following benefits:

(a) Lump sum cash benefit payable after diagnosis from a covered condition as follows:

(1) Early stage cancer benefit - $5,000.

(2) Advanced stage cancer benefit - $20,000.

a. The combined total of all lump sum benefits received during a member's lifetime shall not exceed $40,000.

b. Monthly disability benefits for a period not to exceed 36 months, payable after diagnosis of a covered condition as follows:

1. Class 1 shall be all paid service members who are "Active."

A. The lesser of 60% of monthly salary or $4,000.

B. Such monthly benefit shall be subordinate to any other benefit actually paid to the member solely for such disability from any other source and shall be limited to the difference between the amount of such other paid benefit and the amount specified herein.

2. Class 2 shall be all personnel as described in § 6703B(1) of this title who do not meet the requirement of Class 1.

A. $1,500 per month.

B. Such monthly benefit shall be subordinate to any other benefit actually paid to the member solely for such disability from any other source, not including private insurance purchased solely by the member, and shall be limited to the difference between the amount of such other paid benefit and the amount specified herein.

§6703B. Eligibility.

(a) A Volunteer or Paid Firefighter, EMT, Paramedic, Fire Instructor, Fire Marshal, and Fire Police will be eligible for coverage under this provision after 3 years of active service.

(b) Any person who was simultaneously a member of more than 1 class at the time of diagnosis shall not be entitled to receive benefits from, or on behalf of, more than 1 such class but is entitled to the higher of the 2 classes.

(c) A covered member of Class 1 or Class 2 of this provision shall remain eligible for benefits pursuant to § 6702B of this title for 60 months after the formal cessation of the member's status as an Active Volunteer Firefighter, Paid Firefighter, EMT, Paramedic, Fire Instructor, Fire Marshal, or Fire Police.

§ 6704B. Adjudication of claims.

Claims shall be filed with the insurer by the eligible Volunteer or Paid Firefighter, EMT, Paramedic, Fire Instructor, Fire Marshal, or Fire Police covered individual, representative, or estate.

§ 6705B. Appeals.

Any aggrieved claimant may appeal a decision to the Department of Insurance. The Commissioner may hold a hearing on those claims at which time the Commissioner may receive evidence, make findings, and render a decision. If the claimant is not satisfied with the decision of the Commissioner, the claimant may appeal the decision to the Superior Court, which shall have final appellate jurisdiction under this chapter. Such appeal shall be an appeal on the record. Superior Court may, by rule, set forth the procedure for processing appeals under this chapter.

§ 6706B. Payments to be diminished by amounts of other benefits.

If any claimant under the policy is entitled to receive, as a result of a covered disability, any other income, the payment pursuant to the policy shall be reduced by the amount of such other payment or payments to which the claimant is entitled.

§ 6707B. Source of funding and administration of such policy.

(a) Administration of this policy and funding will be through the Insurance Coverage Office. A separate budget line will be established in which the funds will be transferred from the State Treasurer to the Insurance Coverage Office, pursuant to § 705(f) of this title, who will be responsible for paying the premium for the policy. In any policy year, should the amounts transferred pursuant to § 705(f) of this title be insufficient to fund the premium for the policy, the Fund as defined in §6501 will make up the short fall.

(b) The Insurance Coverage Office will submit a copy of a quarterly stewardship report to the State Fire Commission and the Department of Insurance for their review.

§6708B. Exemption from tax and execution.

Benefits payable under the policy are hereby exempted from any state, county, or municipal tax and shall not be subject to execution or attachment or to any legal process whatsoever and shall be unassignable.

§ 6709B. Statute of Limitation

A claimant shall not bring forth a claim or action after 2 years following the time the claimant was diagnosed with a qualifying cancer as defined in § 6701B of this title.

Section 2. Amend § 705, Title 18, of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(g) On or before July 1st of each year, the Insurance Commissioner shall ascertain and report to the State Treasurer, based on information contained in statements filed pursuant to this section, the amount which equals 0.08% of the amount reflected in such statements as to the total premium obtained during the preceding calendar year for writing in Delaware the types of coverage stated in subsection (a) of this section, and the State Treasurer shall pay such amount to the State Insurance Coverage Office for purposes of funding the premium payment required to be paid by the Insurance Coverage Office under § 6707B of this title. Payments to the Insurance Coverage Office under this section shall be paid out of fees and taxes deposited with the State Treasurer by the Insurance Commissioner, not including those funds received under § 707 of this title.

SYNOPSIS

This allows a policy to be purchased by the Insurance Coverage Office to cover cancer for active Volunteer Firefighters, Paid Firefighters, Fire Marshals, Fire Instructors, Fire Police, EMTs, and Paramedics of the State of Delaware exclusive of those in private sector. This policy will be funded by an assessment calculated based on reporting of gross premiums by insurers writing certain lines of insurance under § 705 of Title 18. The benefits will provide a lump sum for early and advance stages of cancer and monthly income benefits for 36 months.

Author: Senator Poore