

ASSEMBLY, No. 4764

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED DECEMBER 6, 2018

Sponsored by:

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman JOHN ARMATO

District 2 (Atlantic)

Assemblyman R. BRUCE LAND

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Assemblyman Andrzejczak, Assemblywoman Murphy, Assemblyman Spearman, Assemblywomen Jones and Downey

SYNOPSIS

Creates rebuttable presumption in workers' compensation cases of respiratory disease of casino employees working in smoking areas.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning workers' compensation in cases of respiratory
2 disease of casino employees working in smoking areas and
3 supplementing chapter 15 of Title 34 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. a. Any condition or impairment of health of a casino
9 employee which may be caused by any disease of the respiratory
10 system shall be presumed to be an occupational disease
11 compensable under the provisions of R.S.34:15-1 et seq., if the
12 employee is working, or has worked, in a smoking area of a casino.
13 This presumption may be rebutted by clear and convincing evidence
14 that the disease did not arise out of and in the course of the
15 employment, including information regarding whether the employee
16 is a smoker.

17 b. The employer may require the employee to undergo, at the
18 expense of the employer, reasonable medical examination, testing,
19 evaluation and monitoring of health conditions of the employee
20 which are relevant to determining whether the disease arose out of
21 and in the course of the employment, but the presumption of
22 compensability shall not be adversely affected by any failure of the
23 employer to require such examination, testing, evaluation or
24 monitoring. The initial medical examination may be conducted
25 prior to the time that the employee commences work in a smoking
26 area or, if no examination had been conducted before the effective
27 date of this act, within 180 days after the effective date of this act.

28 c. If the initial examination undertaken pursuant to subsection
29 b. of this section fails to disclose the presence of a respiratory
30 disease, and the disease manifests itself after the employee
31 commences work in a smoking area, and the employee did not
32 smoke during or after the period that the employee worked in the
33 smoking area, the disease shall conclusively be regarded as an
34 occupational disease compensable under the provisions of
35 R.S.34:15-1 et seq.

36 d. All results of any medical examination, evaluation or
37 monitoring of health conditions of a casino employee conducted
38 pursuant to this act shall be disclosed to the employee in timely
39 manner.

40 e. For the purposes of this section:

41 "Casino" means casino as defined in section 6 of P.L.1977, c.110
42 (C.5:12-6) approved by the Casino Control Commission, or casino
43 simulcasting facility approved by the Casino Control Commission
44 pursuant to P.L.1992, c.19 (C.5:12-191 et seq.).

45 "Smoking area of a casino" means an area of a casino in which
46 the management of the casino permits smoking.

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48 2. This act shall take effect immediately.

STATEMENT

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The bill creates a rebuttable presumption that any condition or impairment of health of a casino employee which may be caused by any disease of the respiratory system shall be presumed to be an occupational disease compensable under the provisions of the State's workers' compensation law, R.S.34:15-1 et seq., if the employee is working, or has worked, in a smoking area of a casino. This presumption may be rebutted by clear and convincing evidence that the disease did not arise out of and in the course of the employment, including information regarding whether the employee is a smoker.

The bill permits the employer to require the employee to undergo, at the expense of the employer, reasonable medical examination, testing, evaluation and monitoring of health conditions of the employee which are relevant to determining whether the disease arose out of and in the course of the employment, but the presumption of compensability shall not be adversely affected by any failure of the employer to require such examination, testing, evaluation or monitoring.

The initial medical examination may be conducted prior to the time that the employee commences work in a smoking area or, if no examination had been conducted before the effective date of this act, within 180 days after the effective date of this act. If the examination fails to disclose the presence of a respiratory disease, and the disease manifests itself after the employee commences work in a smoking area, and the employee did not smoke during or after the period that the employee worked in the smoking area, the disease shall conclusively be regarded as an occupational disease compensable under workers' compensation.

The bill requires that all results of any medical examination, evaluation or monitoring of health conditions of a casino employee conducted pursuant to the bill be disclosed to the employee in timely manner.