



ANALYSIS OF OREGON SENATE BILL 507 *As Introduced on January 14, 2019*

NCCI estimates that Senate Bill (SB) 507, if enacted, could result in a significant¹ increase in Oregon system costs for job classification codes 7705, 7710, 7720, 7729, and 8411 (herein referred to as First Responders). Much of the cost impact for these classification codes would be borne by governmental entities who are the typical employers of the affected employees. As data reported to NCCI shows that First Responder classification codes represent less than 2% of losses² in Oregon, the impact on overall workers compensation (WC) costs is expected to be minimal³.

Important: The changes proposed in SB 507 would extend to fire service professionals, public safety personnel, and employees of public or private safety agencies per ORS 181A.355, with job duties related to firefighting, police, ambulance, or medical emergency services. Hence, classification codes that are included in the professions listed in SB 507, *other than* 7705, 7710, 7720, 7729, and 8411, would also potentially be affected by this proposed change. **The impact on individual classification codes other than First Responder codes would be dependent on interpretation as to the eligibility for the presumption and the likelihood of contracting a mental injury/illness. To the extent the presumption would be frequently extended to employees in classification codes other than First Responder codes, the impact on overall WC costs would be greater than minimal.**

If enacted, any system cost impact would be realized through future loss experience and reflected in subsequent NCCI loss cost filings in the state.

Summary of SB 507

Currently, under Oregon Revised Statutes (ORS) 656.802, an occupational disease is compensable for all job classifications if the injured worker proves that the employment conditions were the major contributing cause of the disease and establishes the existence of the disease with objective medical evidence.

The existing definition of “occupational disease” includes many physical diseases as well as any mental disorder which requires medical services or results in physical or mental disability or death, and traumatic events which result in physical disability or death. The employee must provide clear and convincing evidence that the mental disorder arose out of and in the course of employment.

¹ Significant in this context is defined as an impact on costs of greater than +/- 5.0%.

² Based on approved NCCI advisory loss costs effective January 1, 2019 and NCCI Workers Compensation Statistical Plan data for Oregon policies becoming effective between 1/1/2015 and 12/31/2015. **Note:** this figure may understate the total population share of Oregon first responders, since the organizations employing them are often self-insured and therefore are not required to report data to NCCI.

³ Minimal in this context is defined as an impact on overall system costs of less than +/- 0.2%.



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SB 507 proposes to apply a rebuttable presumption of compensability for death, disability or impairment from occupational diseases for employees with job duties related to firefighting, police, ambulance, or emergency medical services in the case of mental or emotional trauma or a stress-related disorder, and adds language further defining mental injuries and job descriptions.

An occupational disease would be presumed compensable for an employee performing duties of a first responder if:

- The cause of the injury is a mental or emotional trauma or a stress-related disorder generally recognized within the medical or psychological community.
- “Employment conditions that produce the mental or emotional trauma or stress-related disorder exist in a real and objective sense” and arise out of employment duties.
- Employment conditions that produce the mental or emotional trauma or stress-related disorder are not “generally inherent in every working situation” and are not related to disciplinary or job performance issues.

Actuarial Analysis of SB 507

Under SB 507, benefit costs for First Responders would be expected to significantly increase since a rebuttable presumption would be created for compensable occupational diseases resulting from mental or emotional trauma or stress-related disorder, which may be relatively more common in these jobs and not presumptively compensable under current law. Hence, the likelihood of First Responders receiving WC benefits for mental injuries/illnesses would be expected to increase. Employees in other class codes may be affected as well, although the risk of mental trauma or stress-related disorders is anticipated to be lower than for First Responders and may otherwise be relatively easier to rebut the presumption (that they were not performing the types of job duties listed in SB 507).

Post-traumatic stress disorder (PTSD) is one type of mental or emotional trauma or stress-related disorder that could be impacted if SB 507 were enacted. Although events leading to PTSD cannot be predicted with certainty, the incidence of PTSD is estimated to be significantly higher for first responders compared to the general population. According to the U.S. Department of Veterans Affairs, about 55% of the general population will experience at least one trauma in their lives and, as a result, about 7-8% of the population will have PTSD at some point in their lives.⁴ In comparison, the National Center for Biotechnical Information (NCBI) concluded that the prevalence of PTSD among Emergency Medical Technicians is greater than 20%,⁵ and various sources have reported that 7-37% of firefighters have PTSD.⁶

⁴ U.S. Department of Veterans Affairs. (No date). How Common is PTSD in Adults? Retrieved from https://www.ptsd.va.gov/understand/common/common_adults.asp.

⁵ Donnelly, E., and Siebert, D. (2009, Sep-Oct). Occupational risk factors in the emergency medical services. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/20066645>.

⁶ Tull, Matthew. (2013, January 29). Rates of PTSD in Firefighters. Retrieved from <http://ptsd.about.com/od/prevalence/a/Firefighters.htm>.



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NCCI is unable to explicitly quantify the expected increase in the number of compensable occupational disease claims if SB 507 were enacted, due to behavioral factors associated with filing these types of claims. However, due to the high prevalence of PTSD among first responders, other types of mental or emotional trauma or stress-related disorders included, and the elimination of major contributing cause and pre-existing conditions defenses, **NCCI estimates that the increase in compensable PTSD-related claims could be significant for First Responder classifications if this bill were enacted. As data reported to NCCI shows that First Responder classification codes (7705, 7710, 7720, 7729, and 8411) represent less than 2% of losses in Oregon, the impact on overall WC costs is expected to be minimal. However, to the extent the presumption would be frequently extended to employees with job duties related to firefighting, police, ambulance, or medical emergency services in classification codes other than First Responders, the impact on overall WC costs would be greater.**

Other Consideration

SB 507 states that the proposed change would “apply to all claims for benefits that occur or are pending on or after the effective date of this 2019 Act.”. Hence, the proposed changes, if enacted, would extend to some accidents/events occurring prior to the proposed effective date, and there may be retroactive cost impacts arising from the provisions of SB 507. If enacted, such a retroactive application could result in an unfunded liability, as any potential cost impacts from pending claims due to SB 507 would not have been contemplated in the approved NCCI loss costs applicable to policies written prior to the bill’s enactment.

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