**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 3523**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. McCoy, Bennett, Duckworth, Yow and Davis

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Companion/Similar bill(s): 164, 174, 3374

Introduced in the House on January 18, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Workers' Compensation

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/18/2017 House Introduced and read first time ([House Journal‑page 17](file:///h:\hj\20170118.docx))

1/18/2017 House Referred to Committee on **Judiciary** ([House Journal‑page 17](file:///h:\hj\20170118.docx))

2/14/2017 House Member(s) request name added as sponsor: Duckworth, Yow

1/9/2018 House Member(s) request name added as sponsor: Davis

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**VERSIONS OF THIS BILL**

[1/18/2017](file:///p:\pprever\2017-18\3523_20170118.docx)

[2/14/2017](file:///p:\pprever\2017-18\3523_20170214.docx)

**A** **BILL**

TO AMEND SECTION 42‑1‑160, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITIONS OF “INJURY” AND “PERSONAL INJURY” IN WORKERS’ COMPENSATION, SO AS TO PROVIDE A DEFINITION OF “FIRST RESPONDER”, TO MODIFY THE REQUIREMENTS OF A FIRST RESPONDER SEEKING WORKERS’ COMPENSATION FOR PERSONAL INJURY CAUSED BY STRESS, MENTAL INJURY, OR MENTAL ILLNESS, AND TO INCLUDE MENTAL ILLNESS AMONG RELATED CONDITIONS THAT MAY BE COMPENSABLE IF RESULTING FROM A SIGNIFICANT TRAUMATIC EXPERIENCE.

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

SECTION 1. Section 42‑1‑160 of the 1976 Code is 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 if the employee is employed as a first responder and the impairment causing the stress, mental injury, or mental illness arises from the first responder’s direct involvement in, or subjection to, a significanttraumatic experience or situation, without regard to whether the experience or situation was extraordinary or unusual  in comparison to the normal working conditions of a first responder’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 casually 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 casually 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 casually 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.

(I) As used in this section, ‘first responder’ means a law enforcement officer, firefighter, emergency medical technician, or paramedic employed by state or local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or local government is also considered a first respondent of the state or local government for purposes of this section.”

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

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