

AMENDED IN SENATE AUGUST 9, 2004

AMENDED IN SENATE JULY 15, 2004

AMENDED IN SENATE JUNE 1, 2004

AMENDED IN SENATE JULY 14, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1324

**Introduced by Assembly Member Steinberg
(Coauthor: Assembly Member Koretz)**

February 21, 2003

An act to add Section 3212.86 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1324, as amended, Steinberg. Workers' compensation: infectious diseases: dependents.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of or in the course of employment.

Existing law also defines "injury" in the case of specified state and local firefighting, law enforcement personnel, and patrol members, to include any blood-borne infectious disease that develops or manifests

itself during the period while the member is in the service of the governmental entity.

This bill would provide that if a person who is a specified state or local firefighting, law enforcement, or patrol member ~~sustains~~ *sustained an injury as the result of a work-related event that occurred on or before January 1, 1984*, that meets the definition of a blood-borne infectious disease, and a dependent or former dependent of that person contracts the blood-borne infectious disease from that person, the dependent or former dependent may elect, *on or before January 1, 2012*, to receive compensation under the workers’ compensation law, for the duration of the disease, for all medically necessary health care costs associated with the disease.

This bill would prohibit a dependent or former dependent from bringing a civil action against the employer for damages if the dependent or former dependent elects to receive compensation under the workers’ compensation law. The bill would provide that if a dependent or former dependent does not elect to receive compensation under the workers’ compensation law, the dependent or former dependent shall retain the right to all civil remedies otherwise allowed by law, and shall not be subject to a defense that the claim is barred by workers’ compensation provisions. The bill would also define “former dependent” for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3212.86 is added to the Labor Code, to
2 read:
3 3212.86. (a) If a person covered under Section 3212.8
4 ~~sustains an injury~~ *sustained an injury as the result of a*
5 *work-related event that occurred on or before January 1, 1984*,
6 that meets the definition of a blood-borne infectious disease
7 contained in Section 3212.8, and a dependent or former dependent
8 of that person contracts the blood-borne infectious disease from
9 that person, the dependent or former dependent may elect to
10 receive compensation pursuant to this division, for the duration of
11 the disease, for all medically necessary health care costs associated
12 with the disease.



1 (b) (1) If a dependent or former dependent elects to receive
2 compensation pursuant to this division, as specified in subdivision
3 (a), this election shall constitute the sole and exclusive remedy of
4 the dependent or former dependent against the employer and the
5 dependent or former dependent may not bring a civil action against
6 the employer for damages.

7 (2) If a dependent or former dependent does not elect to receive
8 compensation pursuant to this division, as specified in subdivision
9 (a), the dependent or former dependent shall retain the right to
10 pursue all civil remedies otherwise allowed by law, and shall not
11 be subject to a defense that the dependent's or former dependent's
12 claim is barred by this division.

13 (c) For purposes of this section, "former dependent" means a
14 person who was diagnosed with a blood-borne infectious disease
15 on or after January 1, 1990, which was contracted from a person
16 covered under Section 3212.8 while a dependent of that person but
17 the dependency relationship has terminated. It is the intent of the
18 Legislature that this section applies retroactively.

19 (d) *Any election made by a dependent or former dependent to*
20 *receive compensation pursuant to this section shall be made on or*
21 *before January 1, 2012.*

