

OPINION NO. 71-073

Syllabus:

Members of a township fire department are covered by the Ohio Workmen's Compensation Act during a trip outside the State of Ohio to attend a training meeting as directed by an authorized official.

To: Lee C. Falke, Montgomery County Pros. Atty., Dayton, Ohio
By: William J. Brown, Attorney General, November 4, 1971

You have requested my opinion as to whether members of a township fire department are covered by the Ohio Workmen's Compensation Act during a trip outside the State of Ohio, such trip being necessary to receive suitable training in new and sophisticated fire protection methods and equipment. It appears that the training sessions are held in Chicago and that the trainees may accompany the Chicago Fire Department to actual fires.

Section 4123.01, Revised Code, defines an employee covered by the Workmen's Compensation Act in the following terms:

"(A) 'Employee,' * * * means:

"(1) Every person in the service of the state, or of any * * * township, * * * including regular members of lawfully constituted

* * * fire departments of * * * townships * * *
 wherever serving within the state or on temp-
orary assignment outside thereof * * *;

"* * * * * * * *"

(Emphasis added.)

Section 4123.54, Revised Code, reads, in part, as follows:

"Every employee, who is injured or who contracts an occupational disease, * * * contracted in the course of employment, wherever such injury has occurred or occupational disease has been contracted, * * * is entitled to receive, either directly from his employer as provided in section 4123.35 of the Revised Code, or from the state insurance fund, such compensation for loss sustained on account of such injury, occupational disease or death, and such medical, nurse, and hospital services and medicines, and such amount of funeral expenses in case of death, as are provided by sections 4123.01 to 4123.94, inclusive, of the Revised Code." (Emphasis added.)

The question is whether out-of-state injuries which may occur during the course of fire-fighting training sessions, attended by direction of an authorized official, come within the coverage of this statute. I think it clear that they do. In Prendergast v. Industrial Commission of Ohio, 136 Ohio St. 535, 27 N.E. 2d 235 (1940) the Court, in its Syllabus, stated that:

"1. The right of an injured employee to participate in the State Insurance Fund of this state is wholly dependent upon and grows out of the employment relationship existing between an employer of this state and such injured employee who is, at the time of injury, employed by such employer and engaged in the course of the employment.

"2. There is no constitutional or statutory inhibition against the application of the Ohio Workmen's Compensation Act to a case where the employee of an Ohio employer is injured or meets accidental death in the course of his employment outside of Ohio.

"* * * * * * * *"

In Bowen v. Industrial Commission of Ohio, 61 Ohio App. 469 (1939), the Court held that a school teacher:

"* * * [A]ttending a teacher's institute in a city other than the one in which she is employed, at the express request and direction of her superintendent, being paid her regular salary but not provided transportation or lodging, who was injured in an automobile accident which occurred while she was leaving a meeting of the institute and proceeding to the place where she expected to spend the night in order to attend the institute the following

day, was injured in the course of her employment within the meaning of the Workmen's Compensation Act and is entitled to compensation."

From these two cases, it seems clear that firemen, who have been directed to attend a training program in another state, are covered by the Workmen's Compensation Act in the same way that they would be covered if the training program were conducted in Ohio.

In specific answer to your question it is my opinion, and you are so advised, that members of a township fire department are covered by the Ohio Workmen's Compensation Act during a trip outside the State of Ohio to attend a training meeting as directed by an authorized official.