

SENATE FILE NO. SF0089

Presumptive disability for firefighters.

Sponsored by: Senator(s) Landen and Representative(s)  
Walters

A BILL

for

1 AN ACT relating to public health and safety; providing for  
2 a rebuttable presumption of disabilities for firefighters;  
3 listing subject diseases; providing eligibility for  
4 specified benefits to which the presumption applies;  
5 outlining criteria for presumptions; providing rulemaking  
6 authority; specifying applicability; and providing for an  
7 effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 35-31-101 through 35-31-103 are  
12 created to read:

13

14

CHAPTER 31

15

PRESUMPTIVE DISABILITY FOR CERTAIN DISEASES

1

2           **35-31-101. Definitions.**

3

4           (a) As used in this act:

5

6                   (i) "Firefighter" means a paid fireman defined  
7 under W.S. 15-5-201(a)(xi), a firefighter member under W.S.  
8 9-3-402(a)(xxv), an employee under W.S. 15-5-402(a)(viii),  
9 a volunteer fireman defined under W.S. 15-5-201(a)(xiv) and  
10 a volunteer firefighter or firefighter defined under W.S.  
11 35-9-616(a)(x);

12

13                   (ii) "Listed disease" means any of the  
14 following:

15

16                           (A) Cancer, lymphoma or leukemia that may  
17 be caused by exposure to heat, smoke, radiation or a known  
18 or suspected carcinogen as determined by the International  
19 Agency for Research on Cancer;

20

21                           (B) Cardiovascular disease;

22

23                           (C) Acute myocardial infarction or stroke;

1

2 (D) A disease, illness, health impairment  
3 or disability determined on a case-by-case basis under  
4 W.S. 35-31-102(h);

5

6 (E) Any other disease, illness, health  
7 impairment or disability as the Wyoming department of  
8 health prescribes by rule after verifiable research  
9 determines a dominant cause of the disease, illness, health  
10 impairment or disability is or was employment as a  
11 firefighter.

12

13 (iii) "Minimum period of employment" means:

14

15 (A) Employment as a firefighter for at  
16 least five (5) years;

17

18 (B) For volunteer firefighters, an  
19 individual is considered to have been employed for the  
20 minimum period of employment if that individual while  
21 actively a volunteer participates or participated in a  
22 minimum of forty percent (40%) of the drills conducted by  
23 the individual's department and a minimum of twenty-five

1 percent (25%) of the emergency calls received during the  
2 time the volunteer serves or served on call.

3

4 (iv) "This act" means W.S. 35-31-101 through  
5 35-31-103.

6

7 **35-31-102. Presumption of occupational disability;**  
8 **applicability; exceptions.**

9

10 (a) A firefighter who suffers from a listed disease  
11 is presumed to have developed that listed disease during  
12 the course and scope of employment. The listed disease is  
13 presumed to be an occupational disease, the dominant cause  
14 of which is the employment as a firefighter, unless the  
15 contrary is proven.

16

17 (b) A presumption established under this act applies  
18 to a determination of whether a firefighter's injury,  
19 disease, illness, health impairment, disability or death  
20 resulted from a listed disease contracted in the course and  
21 scope of employment for purposes of benefits or  
22 compensation provided under:

23

1           (i) Firefighter retirement and disability  
2 retirement plans administered by the Wyoming retirement  
3 board under W.S. 9-3-401 through 9-3-431, 15-5-201 through  
4 15-5-209, 15-5-401 through 15-5-422 and 35-9-616 through  
5 35-9-628;

6

7           (ii) Workers' compensation benefits paid by or  
8 on behalf of an employer to an employee under the  
9 provisions of W.S. 27-14-101 through 27-14-806 or a  
10 comparable workers' compensation law of another  
11 jurisdiction;

12

13           (iii) University of Wyoming and Wyoming  
14 community college tuition and fees as provided under  
15 W.S. 21-16-1501(h) and (j).

16

17           (c) The presumption in subsection (a) of this section  
18 applies only to a firefighter who:

19

20           (i) Is employed for not less than the minimum  
21 period of employment and seeks the presumption within ten  
22 (10) years after being employed not less than the minimum  
23 period of employment;

1

2           (ii) Has been exposed to the hazards involved in  
3 firefighting throughout the minimum period of employment;  
4 and

5

6           (iii) On becoming employed or during employment  
7 as a firefighter received a physical examination that  
8 failed to reveal evidence of the listed disease for which  
9 the presumption is sought.

10

11           (d) The presumption in subsection (a) of this section  
12 does not apply:

13

14           (i) If the listed disease is known to be caused  
15 by smoking tobacco and the firefighter:

16

17                   (A) Is a smoker of tobacco in a quantity of  
18 twenty (20) or more cigarettes per day for ten (10) or more  
19 years; or

20

21                   (B) Was a smoker of tobacco in a quantity  
22 of twenty (20) or more cigarettes per day for ten (10) or

1 more years and it has been fewer than ten (10) years since  
2 the firefighter gave up smoking.

3

4 (ii) In a cause of action brought in a state or  
5 federal court except for judicial review of a proceeding in  
6 which there has been a grant or denial of  
7 employment-related benefits or compensation.

8

9 (e) This act does not create a cause of action.

10

11 (f) This act does not enlarge or establish a right to  
12 any benefit or compensation or eligibility for any benefit  
13 or compensation.

14

15 (g) A firefighter who qualifies for a presumption  
16 established under this act is entitled only to the benefits  
17 or compensation to which the firefighter would otherwise be  
18 entitled to receive at the time the claim for benefits or  
19 compensation is filed.

20

21 (h) A presumption under this act is not limited to  
22 the current listed diseases. A firefighter is not precluded  
23 from a case-by-case demonstration before the department of

1 health that the dominant cause of the firefighter's  
2 disease, illness, health impairment or disability is or was  
3 employment as a firefighter.

4

5 (j) Consistent with its authority under  
6 W.S. 9-2-106(a)(vii) the department of health shall  
7 establish by rule and regulation procedures for  
8 determinations under W.S. 35-31-101(a)(ii)(E) and  
9 subsection (h) of this section, for hearing rebuttals under  
10 W.S. 35-31-103 and shall adopt other rules as necessary to  
11 implement this act.

12

13 (k) Paragraph (d)(i) of this section only prevents  
14 the application of the presumption authorized by this  
15 chapter and does not affect the right of a firefighter to  
16 provide proof, without the use of the presumption, that an  
17 injury, disease, illness, health impairment or disability  
18 occurred during the course and scope of employment.

19

20 **35-31-103. Presumption rebuttal.**

21

22 A person opposed to the award of benefits or compensation  
23 listed under W.S. 35-31-102(b) may rebut the presumption

1 under this act through a showing by a preponderance of the  
2 evidence that a risk factor, accident, hazard or other  
3 cause not associated with the firefighter's service was the  
4 dominant cause of the listed disease.

5

6 **Section 2.** This act is effective July 1, 2017.

7

8

(END)