

Substitute No. 1

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 labor and employment; providing for a
2 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. 27-15-101 through 27-15-103 are
12 created to read:

13

14

CHAPTER 15

15

PRESUMPTIVE DISABILITY FOR CERTAIN DISEASES

1

2 **27-15-101. Definitions.**

3

4 (a) As used in this act:

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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). "Firefighter" also means an individual
12 employed by a municipal corporation or private organization
13 who devotes the individual's entire time of employment to
14 the provision of fire protection service for a city, town,
15 county or fire protection district;

16

17 (ii) "Listed disease" means any of the
18 following:

19

20 (A) Cancer, lymphoma or leukemia that may
21 be caused by exposure to heat, smoke, radiation or a known
22 or suspected carcinogen as determined by the International
23 Agency for Research on Cancer;

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2

(B) Cardiovascular disease;

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(C) Acute myocardial infarction or stroke;

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(D) A disease, illness, health impairment or disability determined on a case-by-case basis under W.S. 27-15-102(h);

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(E) Any other disease, illness, health impairment or disability as the Wyoming workers compensation medical commission prescribes by rule after verifiable research determines a dominant cause of the disease, illness, health impairment or disability is or was employment as a firefighter.

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17

(iii) "Minimum period of employment" means:

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19

(A) Employment as a firefighter for at least ten (10) years; and

21

22

(B) For volunteer firefighters, an individual is considered to have been employed for the

23

1 minimum period of employment if that individual while
2 actively a volunteer participates or participated in a
3 minimum of forty percent (40%) of the drills conducted by
4 the individual's department and a minimum of twenty-five
5 percent (25%) of the emergency calls received during the
6 time the volunteer serves or served on call. Volunteer
7 firefighter departments shall keep individual records that
8 document the criteria in this subparagraph.

9

10 (iv) "This act" means W.S. 27-15-101 through
11 27-15-103.

12

13 **27-15-102. Presumption of occupational disability;**
14 **applicability; exceptions.**

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16 (a) A firefighter who suffers from a listed disease
17 is presumed to have developed that listed disease during
18 the course and scope of employment. The listed disease is
19 presumed to be an occupational disease, the dominant cause
20 of which is the employment as a firefighter, unless the
21 contrary is proven.

22

1 (b) A presumption established under this act applies
2 to a determination of whether a firefighter's injury,
3 disease, illness, health impairment, disability or death
4 resulted from a listed disease contracted in the course and
5 scope of employment for purposes of benefits or
6 compensation provided under:

7

8 (i) Firefighter retirement and disability
9 retirement plans administered by the Wyoming retirement
10 board under W.S. 9-3-401 through 9-3-431, 15-5-201 through
11 15-5-209, 15-5-401 through 15-5-422 and 35-9-616 through
12 35-9-628;

13

14 (ii) Workers' compensation benefits paid by or
15 on behalf of an employer to an employee under the
16 provisions of W.S. 27-14-101 through 27-14-806;

17

18 (iii) University of Wyoming and Wyoming
19 community college tuition and fees as provided under
20 W.S. 21-16-1501(h) and (j).

21

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

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2 (i) Is employed for not less than the minimum
3 period of employment and seeks the presumption within ten
4 (10) years after cessation of employment;

5

6 (ii) Has been exposed to the hazards involved in
7 firefighting during the minimum period of employment; and

8

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

13

14 (d) The presumption in subsection (a) of this section
15 does not apply:

16

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

19

20 (A) Is a regular user of tobacco for ten
21 (10) or more years; or

22

1 (B) Was a regular user of tobacco for ten
2 (10) or more years and it has been fewer than ten (10)
3 years since the firefighter gave up the use of tobacco
4 products.

5

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

10

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

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

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

22

1 (h) A presumption under this act is not limited to
2 the current listed diseases. A firefighter is not precluded
3 from a case-by-case demonstration before the Wyoming
4 workers' compensation medical commission that the dominant
5 cause of the firefighter's disease, illness, health
6 impairment or disability is or was employment as a
7 firefighter.

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

16

17 **27-15-103. Presumption rebuttal.**

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19 A person opposed to the award of benefits or compensation
20 listed under W.S. 27-15-102(b) may rebut the presumption
21 under this act through a showing by a clear and convincing
22 evidence that a risk factor, accident, hazard or other

1 cause not associated with the firefighter's service was the
2 dominant cause of the listed disease.

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4 **Section 2.** W.S. 27-14-616(b) by creating a new
5 paragraph (vi) is amended to read:

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7 **27-14-616. Medical commission; hearing panels;**
8 **creation; membership; duties; rulemaking.**

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10 (b) One (1) member shall be elected by commission
11 members as chairman and one (1) as vice-chairman. The
12 division shall designate an employee to serve as executive
13 secretary of the commission or contract with an individual
14 to provide executive secretary services to the commission.
15 The governor may appoint no more than eleven (11)
16 additional health care providers as associate members of
17 the commission whose function is limited to serving as
18 members of individual medical hearing panels. Except for
19 initial members, the terms of commission members and
20 associate members shall be three (3) years. Three (3)
21 members of the initial commission and three (3) initial
22 associate members shall be appointed to a one (1) year term
23 and four (4) initial commission members and four (4)

1 initial associate members shall be appointed to a two (2)
2 year term. The duties of the commission shall be:

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4 (vi) To establish by rule and regulation
5 procedures for decisions pursuant to W.S.
6 27-15-101(a)(ii)(E) and 27-15-102(h) and for rebuttals
7 pursuant to W.S. 27-15-103 and to adopt other rules as
8 necessary to implement W.S. 27-15-101 through 27-15-103.

9

10 **Section 3.** This act is effective July 1, 2017.

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12

(END)