

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 520
Mar 28, 2019
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40246-LR-76

Short Title: Firefighters Fighting Cancer Act. (Public)

Sponsors: Representatives Lewis, Bell, Saine, and Murphy (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A PRESUMPTION THAT CERTAIN CANCERS ARE
3 OCCUPATIONAL DISEASES FOR FIREFIGHTERS EMPLOYED BY UNITS OF
4 LOCAL GOVERNMENT THAT ARE COVERED BY THE WORKERS'
5 COMPENSATION ACT.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 97-53 reads as rewritten:

8 "**§ 97-53. Occupational diseases enumerated; when due to exposure to**
9 **chemicals enumerated.**

10 (a) Occupational Diseases Due to Exposure to Chemicals. – The following diseases and
11 conditions only shall be deemed to be occupational diseases within the meaning of this Article:

12 ...

13 (6) ~~Lead poisoning. Provided poisoning if the employee shall have been was~~
14 ~~exposed to the hazard of lead poisoning for at least 30 days in the preceding~~
15 ~~12 months' period; and, provided further, only 12-month period. Only the~~
16 ~~employer in whose employment such employee was last injuriously exposed~~
17 ~~shall be liable.~~

18 ...

19 Occupational diseases caused by chemicals shall be deemed to be due to exposure of an
20 employee to the chemicals herein mentioned only when as a part of the employment such
21 employee is exposed to such chemicals in such form and quantity, and used with such frequency
22 as to cause the occupational disease mentioned in connection with such chemicals.

23 (b) Occupational Diseases of Firefighters. – Any condition or impairment of health
24 caused by any of the following types of cancers shall be deemed to be occupational diseases of
25 firefighters within the meaning of this Article:

- 26 (1) Esophageal.
27 (2) Intestinal.
28 (3) Rectal.
29 (4) Testicular.
30 (5) Brain.
31 (6) Non-Hodgkin's lymphoma.
32 (7) Multiple myeloma.
33 (8) Mesothelioma.
34 (9) Oral cavity."

35 **SECTION 2.** Article 1 of Chapter 97 of the General Statutes is amended by adding
36 a new section to read:



1 "§ 97-53.1. Compensability of firefighter occupational diseases.

2 (a) Findings. – The General Assembly finds that:

3 (1) Firefighting is a particularly hazardous occupation that requires firefighters to
4 work under constantly changing and often unstable environments.

5 (2) Firefighters are routinely exposed to hazardous agents such as carbon
6 monoxide, carcinogens, particulate matter, and a broad array of other toxic
7 chemicals generated from the smoke of burning materials.

8 (3) Firefighters as a class face an increased risk of certain cancers as a result of
9 their duties and responsibilities toward the general public.

10 (b) Intent. – Recognizing that firefighting is a hazardous occupation that is essential to
11 protecting the personal safety of the citizens of this State, it is in the interest of the public and the
12 welfare of those who perform firefighting activities to ensure that firefighters are adequately
13 compensated for injuries, illnesses, and deaths that are causally related to their firefighting
14 activities. Therefore, it is the intent of the General Assembly to presume that the diseases
15 specified in G.S. 97-53(b) are occupationally related to firefighting for the purpose of
16 determining eligibility for compensation under the Workers' Compensation Act.

17 (c) Definitions. – The following definitions apply in this section:

18 (1) Disability. – Incapacity because of an occupational disease described in
19 G.S. 97-53(b) to earn the wages that the firefighter was receiving at the time
20 of manifestation of the occupational disease.

21 (2) Firefighter. – A paid, partially paid, or volunteer member of a fire department
22 of a unit of local government.

23 (d) Presumed Eligibility. – A firefighter shall be presumed eligible for compensation for
24 occupational disease under this Article if either of the following sets of conditions is met:

25 (1) The firefighter was required to submit to a physical examination upon entering
26 the service of the unit of local government as a firefighter, the examination
27 failed to reveal any evidence of a firefighter occupational disease described in
28 G.S. 97-53(b), and the firefighter has completed at least five years of service
29 as a firefighter for the unit of local government.

30 (2) The firefighter was not required to submit to a physical examination upon
31 entering the service of the unit of local government as a firefighter and, at the
32 time of disability by an occupational disease described in G.S. 97-53(b), the
33 firefighter has completed at least five years of continuous service immediately
34 preceding January 1, 2017, as a firefighter for the unit of local government.

35 (e) Burden of Rebuttal. – In the case of a firefighter occupational disease described in
36 G.S. 97-53(b), the unit of local government has the burden of proving, by a preponderance of
37 competent evidence, that the condition was caused by some means other than the firefighter's
38 occupation in order to disqualify the firefighter from receiving compensation for occupational
39 disease pursuant to this section.

40 (f) Applicability. – This section applies to firefighters of units of local government only."

41 **SECTION 3.** This act is effective when it becomes law and applies to claims for
42 workers' compensation benefits filed on or after that date.