

ASSEMBLY, No. 1825

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

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District 14 (Mercer and Middlesex)

SYNOPSIS

Creates presumption that certain firefighters who develop cancer are eligible for workers' compensation and accidental disability pension.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/2/2021)

1 **AN ACT** concerning firefighters and cancer and amending and
 2 supplementing P.L.1944, c.255 and supplementing chapter 15 of
 3 Title 34 of the Revised Statutes.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. (New section) a. Cancer developed by a firefighter who has
 9 been assigned to at least six years of hazardous duty as a firefighter
 10 shall be presumed to be an occupational disease compensable under
 11 the provisions of R.S.34:15-1 et seq., if the firefighter was exposed
 12 to an agent classified by the International Agency for Research on
 13 Cancer or its successor organization as a group 1 or 2A carcinogen.

14 b. The presumption described in subsection a. of this section
 15 may be rebutted by evidence that the firefighter:

16 (1) was exposed, outside the scope of the firefighter's official
 17 duties, to cigarettes, tobacco products, or other conditions
 18 presenting an extremely high risk for the development of the cancer
 19 alleged, which exposure was probably a significant factor in the
 20 cause or progression of the cancer;

21 (2) was not exposed to an agent classified by the International
 22 Agency for Research on Cancer or its successor organization as a
 23 group 1 or 2A carcinogen;

24 (3) incurred the type of cancer alleged before becoming a
 25 member of the fire department; or

26 (4) is 70 years of age or older.

27 c. The presumption described in subsection a. of this section
 28 shall not apply if it has been more than 20 years since the firefighter
 29 was last assigned to hazardous duty as a firefighter.

30 d. Compensation for cancer developed by a firefighter in the
 31 course of hazardous duty is payable pursuant to this section only in
 32 the event of disability permanent in quality and partial in character,
 33 disability permanent in quality and total in character, or death.

34
 35 2. (New section) a. The Division of Workers' Compensation,
 36 in consultation with the New Jersey Compensation Rating and
 37 Inspection Bureau and the Division of Pensions of the Department
 38 of the Treasury, shall prepare a report containing the following
 39 information regarding presumed cancer claims under sections 1 and
 40 4 of this act:

41 (1) the number of approved claims;

42 (2) the number of disapproved claims;

43 (3) the number of active claims; and

44 (4) the cost related to claims described in paragraphs (1) and (3)
 45 of this subsection.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 b. The division shall submit the initial report required pursuant
2 to this section not later than two years after the effective date of this
3 act, and an updated report every two years thereafter, to all of the
4 following:

5 (1) the Speaker and the Minority Leader of the General
6 Assembly;

7 (2) the President and Minority Leader of the Senate;

8 (3) the New Jersey State Fire Chiefs Association, or its
9 successor organization;

10 (4) the Professional Firefighters Association of New Jersey or
11 its successor organization; and

12 (5) the New Jersey League of Municipalities, or its successor
13 organization.
14

15 3. Section 7 of P.L.1944, c.255 (C.43:16A-7) is amended to
16 read as follows

17 7. (1) Upon the written application by a member in service, by
18 one acting in his behalf or by his employer any member may be
19 retired on an accidental disability retirement allowance; provided,

20 (a) that the medical board, after a medical examination of such
21 member, shall certify that the member is permanently and totally
22 disabled as a direct result of a traumatic event occurring during and
23 as a result of the performance of his regular or assigned duties and
24 that such disability was not the result of the member's willful
25 negligence and that such member is mentally or physically
26 incapacitated for the performance of his usual duty and of any other
27 available duty in the department which his employer is willing to
28 assign to him; or

29 (b) that the member in service is a firefighter presumed to have
30 incurred cancer during and as a result of the performance of his
31 regular or assigned duties pursuant to section 4 of P.L. ____ ,c.
32 (C. ____) (pending before the Legislature as this bill).

33 The application to accomplish such retirement must be filed
34 within five years of the original traumatic event or the first
35 diagnosis by a licensed physician of the cancer for which the
36 member is seeking an accidental disability retirement allowance
37 under paragraph (b) of this subsection, but the board of trustees may
38 consider an application filed after the five-year period if it can be
39 factually demonstrated to the satisfaction of the board of trustees
40 that the disability is due to the accident or the cancer and the filing
41 was not accomplished within the five-year period due to a delayed
42 manifestation of the disability or to other circumstances beyond the
43 control of the member.

44 (2) Upon retirement for accidental disability, a member shall
45 receive an accidental disability retirement allowance which shall
46 consist of:

47 (a) An annuity which shall be the actuarial equivalent of his
48 aggregate contributions and

1 (b) A pension in the amount which, when added to the member's
2 annuity, will provide a total retirement allowance of $\frac{2}{3}$ of the
3 member's actual annual compensation for which contributions were
4 being made at the time of the occurrence of the accident or at the
5 time of the member's retirement, whichever provides the largest
6 possible benefit to the member.

7 (3) Upon receipt of proper proofs of the death of a member who
8 has retired on accidental disability retirement allowance, there shall
9 be paid to such member's beneficiary, an amount equal to $3\frac{1}{2}$
10 times the compensation upon which contributions by the member to
11 the annuity savings fund were based in the last year of creditable
12 service; provided, however, that if such death shall occur after the
13 member shall have attained 55 years of age the amount payable
14 shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such
15 compensation.

16 (4) Permanent and total disability resulting from a
17 cardiovascular, pulmonary or musculo-skeletal condition which was
18 not a direct result of a traumatic event occurring in the performance
19 of duty shall be deemed an ordinary disability.

20 (cf: P.L.1997, c.281, s.1)

21

22 4. (New Section) a. Cancer developed by a firefighter who has
23 been assigned to at least six years of hazardous duty as a firefighter
24 shall be presumed to have been incurred during and as a result of
25 the performance of the firefighter's regular or assigned duties if the
26 firefighter was exposed to an agent classified by the International
27 Agency for Research on Cancer or its successor organization as a
28 group 1 or 2A carcinogen.

29 b. The presumption described in subsection a. of this section
30 may be rebutted by evidence that the firefighter:

31 (1) was exposed, outside the scope of the firefighter's official
32 duties, to cigarettes, tobacco products, or other conditions
33 presenting an extremely high risk for the development of the cancer
34 alleged, which exposure was probably a significant factor in the
35 cause or progression of the cancer;

36 (2) was not exposed to an agent classified by the International
37 Agency for Research on Cancer or its successor organization as a
38 group 1 or 2A carcinogen;

39 (3) incurred the type of cancer alleged before becoming a
40 member of the fire department; or

41 (4) is 70 years of age or older.

42 c. The presumption described in subsection a. of this section
43 shall not apply if it has been more than 20 years since the firefighter
44 was last assigned to hazardous duty as a firefighter.

45

46 5. This act shall take effect immediately.

STATEMENT

This bill creates a presumption that certain firefighters who develop cancer are eligible for workers' compensation and accidental disability pensions.

This bill stipulates that cancer developed by a firefighter who has been assigned to at least six years of hazardous duty as a firefighter will be presumed to be an occupational disease compensable pursuant to the workers' compensation law, or, for purposes of receiving an accidental disability retirement allowance, presumed to have been incurred during and as a result of the performance of the firefighter's regular or assigned duties, if the firefighter was exposed to an agent classified by the International Agency for Research on Cancer or its successor organization as a group 1 or 2A carcinogen.

The presumption may be rebutted by evidence that the firefighter:

(1) was exposed, outside the scope of the firefighter's official duties, to cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer alleged, which exposure was probably a significant factor in the cause or progression of the cancer;

(2) was not exposed to an agent classified by the International Agency for Research on Cancer or its successor organization as a group 1 or 2A carcinogen;

(3) incurred the type of cancer alleged before becoming a member of the fire department; or

(4) is 70 years of age or older.

The presumption will not apply if it has been more than 20 years since the firefighter was last assigned to hazardous duty as a firefighter.

The bill requires the Division of Workers' Compensation, in consultation with the New Jersey Compensation Rating and Inspection Bureau and the Division of Pensions of the Department of the Treasury, to prepare and submit a report containing the following information regarding presumed cancer claims:

(1) the number of approved claims;

(2) the number of disapproved claims;

(3) the number of active claims; and

(4) the cost related to those claims.