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2 88th General Assembly
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4

As Engrossed: S2/15/11

A Bill

SENATE BILL 293

5 By: Senator J. Jeffress
6

For An Act To Be Entitled

8 AN ACT TO CREATE A PRESUMPTION THAT FIREFIGHTERS WHO
9 DEVELOP CERTAIN FORMS OF CANCER DEVELOPED THOSE
10 CANCERS THROUGH THEIR WORK AS FIREFIGHTERS; AND FOR
11 OTHER PURPOSES.
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Subtitle

15 AN ACT TO CREATE A PRESUMPTION THAT
16 FIREFIGHTERS WHO DEVELOP CERTAIN FORMS OF
17 CANCER DEVELOPED THOSE CANCERS THROUGH
18 THEIR WORK AS FIREFIGHTERS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code Title 14, Chapter 1 is amended to add an
24 additional subchapter to read as follows:

25 Subchapter 4 – Presumption of Disability for Firefighters with
26 Certain Cancers.
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28 14-1-401. Definitions.

29 (a) As used in this section:

30 (1) "Cancer" means cancer of the brain, breast, colon, liver or
31 testicle;

32 (2) "Firefighter" means a member of a fire department or fire
33 fighting unit of a city of the first class or city of the second class, a
34 town, or an unincorporated rural area of this state who actively engages in
35 the fighting of fires on either a regular or voluntary basis; and

36 (3) "Volunteer firefighter" means an individual who actively



1 participates in a minimum of forty percent (40%) of the drills conducted by
2 the individual's department and twenty-five percent (25%) of the fire or
3 other emergency calls received by the department during the time that the
4 volunteer firefighter is on call.

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6 14-1-402. Presumption of disability.

7 (a) A firefighter who suffers from cancer resulting in death or total
8 or partial disability is presumed to have developed the cancer during the
9 course and scope of employment as a firefighter if:

10 (1) The firefighter regularly responded:

11 (A) On the scene to calls involving fires or fire
12 fighting; or

13 (B) To an event involving the documented release of
14 radiation or a known or suspected carcinogen while employed as a firefighter;
15 and

16 (2) The cancer is known to be associated with fire fighting or
17 exposure to heat, smoke, radiation, or a known or suspected carcinogen as
18 described in subsection (b) of this section.

19 (b) This section applies only to a cancer that may be caused by
20 exposure to heat, smoke, radiation, or a known or suspected carcinogen as
21 determined by the International Agency for Research on Cancer on or before
22 January 1, 2011.

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24 14-1-403. Applicability.

25 (a) This subchapter applies only to a firefighter who:

26 (1) On becoming employed or during employment as a firefighter
27 received a physical examination that failed to reveal evidence of the illness
28 or disease for which benefits or compensation are sought using a presumption
29 established under this subchapter;

30 (2) Has been employed for five (5) or more years as a
31 firefighter ; and

32 (3) Seeks benefits or compensation for a disease or illness
33 covered by this subchapter that is discovered during employment as a
34 firefighter.

35 (b) A presumption under this subchapter does not apply:

36 (1) To a determination of a survivor's eligibility for

1 benefits;

2 (2) In a cause of action brought in a state or federal court
3 except for a judicial review of a proceeding in which there has been a grant
4 or denial of employment-related benefits or compensation;

5 (3) To a determination regarding benefits or compensation under
6 a life or disability insurance policy purchased by or on behalf of the
7 firefighter that provides coverage in addition to any benefits or
8 compensation required by law; or

9 (4) If the disease or illness for which benefits or compensation
10 is sought is known to be caused by the use of tobacco, and:

11 (A) The firefighter is or has been a user of tobacco; or

12 (B) The firefighter's spouse has during the marriage been
13 a user of tobacco that is consumed through smoking.

14 (c) This subchapter does not create a cause of action.

15 (d) This subchapter does not enlarge or establish a right to any
16 benefit or compensation or eligibility for any benefit or compensation.

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

21 (f) This subchapter applies to a firefighter who provides services as
22 an employee of an entity created by an interlocal agreement.

23 (g) Subdivision (b)(4) of this section does not affect the right of a
24 firefighter to present proof that an injury or illness occurred during the
25 course and scope of employment.

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27 14-1-404. Effect of presumption.

28 Except as provided under § 14-1-403, a presumption established under
29 this subchapter applies to a determination of whether a firefighter's
30 disability or death resulted from a disease or illness contracted in the
31 course and scope of employment for purposes of benefits or compensation
32 provided under any employee benefit, law, or plan, including a pension plan.

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34 14-1-405. Presumption rebuttable.

35 A presumption under this subchapter may be rebutted through a showing
36 by a preponderance of the evidence that a risk factor, accident, hazard, or

1 other cause not associated with the individual's service as a firefighter
2 caused the individual's disease or illness.

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/s/J. Jeffress