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2 88th General Assembly
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4

As Engrossed: S2/15/11 S2/22/11

A Bill

SENATE BILL 293

5 By: Senator J. Jeffress
6 By: Representative Woods
7

For An Act To Be Entitled

9 AN ACT TO CREATE A PRESUMPTION THAT FIREFIGHTERS WHO
10 DEVELOP CERTAIN FORMS OF CANCER DEVELOPED THOSE
11 CANCERS THROUGH THEIR WORK AS FIREFIGHTERS; AND FOR
12 OTHER PURPOSES.
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14

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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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 14, Chapter 1 is amended to add an
25 additional subchapter to read as follows:

26 Subchapter 4 – Presumption of Disability for Firefighters with
27 Certain Cancers.
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29 14-1-401. Definitions.

30 (a) As used in this section:

31 *testicle; and*

32 *(2) “Firefighter” means a person who is paid as a member of a*
33 *fire department or fire fighting unit of a city of the first class or city of*
34 *the second class, a town, or an unincorporated rural area of this state who*
35 *actively engages in the fighting of fires.*
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1 14-1-402. Presumption of disability.

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

5 (1) The firefighter regularly responded:

6 (A) On the scene to calls involving fires or fire
7 fighting; or

8 (B) To an event involving the documented release of
9 radiation or a known or suspected carcinogen while employed as a firefighter;
10 and

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

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

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19 14-1-403. Applicability.

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

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

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

27 (3) Seeks benefits or compensation for a disease or illness
28 covered by this subchapter that is discovered during employment as a
29 firefighter.

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

31 (1) To a determination of a survivor's eligibility for
32 benefits;

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

36 (3) To a determination regarding benefits or compensation under

1 a life or disability insurance policy purchased by or on behalf of the
2 firefighter that provides coverage in addition to any benefits or
3 compensation required by law; or

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

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

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

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

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

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

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

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

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22 14-1-404. Effect of presumption.

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

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29 14-1-405. Presumption rebuttable.

30 A presumption under this subchapter may be rebutted through a showing
31 by a preponderance of the evidence that a risk factor, accident, hazard, or
32 other cause not associated with the individual's service as a firefighter
33 caused the individual's disease or illness.

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35 */s/J. Jeffress*