

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S2/15/11 S2/22/11 S3/1/11

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.
13
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.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. Arkansas Code Title 14, Chapter 53 is amended to add an*
25 *additional subchapter to read as follows:*

26 *Subchapter 2 – Presumption of Disability for Firefighters with*
27 *Certain Cancers.*
28

29 *14-53-201. Definitions.*

30 *(a) As used in this section:*

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

33 *(2)(A) "Firefighter" means a person who is paid as a member of a*
34 *municipal fire department or fire fighting unit of a city of the first class,*
35 *city of the second class, or a town who actively engages in the fighting of*
36 *fires.*



1 (B) "Firefighter" does not include:

2 (i) A volunteer firefighter;

3 (ii) A firefighter who is an employee of a county;

4 or

5 (iii) A firefighter covered under § 20-22-809.

6
7 14-53-202. Presumption of disability.

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

11 (1) The firefighter regularly responded:

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

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

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

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

24
25 14-53-203. Applicability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25
26 14-53-204. Effect of presumption.

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

32
33 14-53-205. Presumption rebuttable.

34 A presumption under this subchapter may be rebutted through a showing
35 by a preponderance of the evidence that a risk factor, accident, hazard, or
36 other cause not associated with the individual's service as a firefighter

1 caused the individual's disease or illness.

2

3

/s/J. Jeffress

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36