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An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 39-A MRSA §328-B is enacted to read:

§ 328-B. Cancer suffered by a firefighter

Cancer suffered by a firefighter is governed by this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cancer" means a cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems or that may result from exposure to heat, radiation or a known or suspected carcinogen.

B. "Employed" means to be employed as an active duty firefighter or to be an active member of a volunteer fire association with no compensation other than injury and death benefits.

C. "Firefighter" means a municipal firefighter as defined in Title 30-A, section 3151, subsection 2 or a volunteer firefighter as defined in Title 30-A, section 3151, subsection 4.

2. Presumption. If a firefighter who contracts cancer has met the requirements of subsection 3, there is a rebuttable presumption that the firefighter contracted the disease arising out of and in the course of employment as a firefighter, that sufficient notice of the disease has been given and that the disease was not occasioned by the willful intention of the firefighter to cause the disease.

3. Required medical tests. In order to be entitled to the presumption in subsection 2, during the time of employment as a firefighter the firefighter must have undergone a standard, medically acceptable test for evidence of the cancer for which the presumption is sought or evidence of the medical conditions derived from the disease, which test failed to indicate the presence or condition of cancer. This subsection does not apply to a firefighter who is employed on the effective date of this section.

4. Liability if services performed for more than one employer. If a firefighter who contracts cancer and qualifies for the presumption under subsection 2 was employed by more than one employer, the employer of the firefighter and the insurer of that employer at the time of the last exposure to the risk of the cancer are the only persons liable under this Part.

5. Retired firefighters. This section applies to a firefighter who is diagnosed with cancer within 20 years of the firefighter's last active employment as a firefighter.

SUMMARY

This bill creates a rebuttable presumption under the Maine Workers' Compensation Act of 1992 that a firefighter who contracts cancer contracted the disease in the course of employment as a firefighter if the firefighter, during the time of that firefighter's employment, received a test for cancer that failed to detect the cancer. This bill makes the last employer for whom the firefighter worked at the time of the last exposure to the risk of cancer and that employer's insurer liable for the cancer.