

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the amendment in section 1 by striking out all of §328-B and inserting the following:

‘§ 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 multiple myeloma, non-Hodgkin's lymphoma, prostate cancer or testicular cancer.

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.

D. "Test" means a standard, medically acceptable test designed to reveal either evidence of the cancer for which a presumption is sought or evidence of a medical condition derived from the cancer itself.

2. Presumption. If a firefighter who is diagnosed with cancer prior to 65 years of age has met the requirements of subsections 3, 4 and 5, there is a rebuttable presumption that the cancer arose out of and in the course of employment as a firefighter, that sufficient notice of the cancer has been given and that the cancer was not occasioned by the willful intention of the firefighter to cause the cancer.

3. Required medical tests. To be entitled to the presumption in subsection 2, the firefighter, during the time of employment as a firefighter, must have undergone a test that failed to indicate the presence of the cancer for which the presumption is sought.

4. Required service. To be entitled to the presumption under subsection 2, the firefighter must have been employed as a firefighter for at least 10 years and must have engaged in fighting at least 200 fires that required the firefighter's direct and personal exposure to heat, smoke and radiation.

5. Required showings. To be entitled to the presumption in subsection 2, the firefighter must show that his or her diagnosed cancer is not prevalent among the firefighter's blood-related parents, grandparents or siblings and that the firefighter has no substantial lifetime exposures to carcinogens that are associated with the firefighter's diagnosed cancer other than the exposures of firefighting.

6. 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

substantial exposure to the risk of cancer are the only persons liable under this Part. For the purposes of this subsection, "substantial exposure" means exposure from having fought at least 30 fires requiring the firefighter's direct and personal exposure to heat, smoke and radiation.

7. Retired firefighters. This section does not apply to a firefighter who is diagnosed with cancer more than 10 years after the firefighter's last active employment as a firefighter.'

SUMMARY

This amendment amends the committee amendment. Like the bill as amended by Committee Amendment "A," this amendment maintains the 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 cancer. Unlike the bill as amended by Committee Amendment "A," this amendment limits the definition of "cancer" and adds a definition of "test" to the list of definitions and specifies that the firefighter must have been a firefighter for at least 10 years and have been directly exposed to heat, smoke and radiation in at least 200 fires, must show that the diagnosed cancer is not prevalent among the firefighter's parents, grandparents and siblings and must show that the firefighter has not had substantial lifetime exposure to carcinogens associated with the cancer outside of firefighting.

The amendment clarifies that substantial exposure to the risk of cancer arises from having fought at least 30 fires requiring the firefighter's direct exposure to heat, smoke and radiation. The amendment reduces the time limit in which the presumption arises from 20 years from the firefighter's last active employment as a firefighter to 10 years.

FISCAL NOTE REQUIRED

(See attached)