
A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the risk of being
2 diagnosed with cancer is higher among firefighters than the
3 general population. In a three-year study completed in 2005 by
4 the University of Cincinnati, researchers concluded that
5 firefighters face a higher risk of cancer than the general
6 population. Statistics from this study show that when compared
7 to the general population, the risk for firefighters is:

- 8 (1) One hundred two per cent higher for testicular cancer;
- 9 (2) Fifty-three per cent higher for multiple myeloma;
- 10 (3) Fifty-one per cent higher for non-Hodgkin's lymphoma;
- 11 (4) Thirty-nine per cent higher for skin cancer;
- 12 (5) Thirty-two per cent higher for brain and malignant
13 melanoma;
- 14 (6) Twenty-nine per cent higher for rectal cancer;
- 15 (7) Twenty-eight per cent higher for prostate cancer;
- 16 (8) Twenty-four per cent higher for buccal cavity and
17 pharynx cancer;
- 18 (9) Twenty-two per cent higher for stomach cancer;



1 (10) Twenty-one per cent higher for colon cancer; and

2 (11) Fourteen per cent higher for leukemia.

3 Firefighters also face a greater risk of contracting
4 infectious diseases and illnesses associated with exposure to
5 patient care and biochemical substances due to bioterrorism.

6 The purpose of this Act is to provide firefighters with
7 comprehensive medical coverage and service connected disability
8 retirement benefits through a presumptive law for cancer, blood-
9 borne infectious diseases, and exposure to a biochemical
10 substance

11 SECTION 2. Chapter 368, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§368- Injuries covered; firefighters. (a) In
15 addition to the injuries covered pursuant to section 386-3, if a
16 firefighter develops cancer or leukemia, suffers from blood-
17 borne infectious disease, or develops methicillin-resistant
18 staphylococcus aureus skin infection during a period that the
19 firefighter is in the course of employment, the cancer,
20 leukemia, blood-borne infectious disease, or methicillin-
21 resistant staphylococcus aureus skin infection shall be presumed
22 to arise out of and in the course of the employment.



1 (b) The compensation that is awarded for cancer shall
2 include full hospital, surgical, medical treatment, disability
3 indemnity, and death benefits.

4 (c) This presumption under subsection (a) is disputable
5 and may be controverted by evidence that the primary site of the
6 cancer has been established and that the carcinogen to which the
7 member has demonstrated exposure is not reasonably linked to the
8 disabling cancer. Unless so controverted, the appeals board is
9 bound to find in accordance with the presumption. This
10 presumption shall be extended to a member following termination
11 of service for a period of three calendar months for each full
12 year of the requisite service, but not to exceed sixty months in
13 any circumstance, commencing with the last date actually worked
14 in the specified capacity.

15 (d) No compensation shall be allowed for an injury
16 incurred by an employee by the employee's wilful intention to
17 injure oneself or another by actively engaging in any unprovoked
18 non-work related physical altercation other than in self-
19 defense, or by the employee's intoxication."

20 SECTION 3. Section 88-79, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§88-79 **Service-connected disability retirement.** (a)
2 Upon application of a member, or the person appointed by the
3 family court as guardian of an incapacitated member, any member
4 who has been permanently incapacitated for duty as the natural
5 and proximate result of an accident occurring while in the
6 actual performance of duty at some definite time and place, or
7 as the cumulative result of some occupational hazard, through no
8 wilful negligence on the member's part, may be retired by the
9 board for service-connected disability; provided that:

- 10 (1) In the case of an accident occurring after July 1,
11 1963, the employer shall file with the system a copy
12 of the employer's report of the accident submitted to
13 the director of labor and industrial relations;
- 14 (2) An application for retirement is filed with the system
15 within two years of the date of the accident, or the
16 date upon which workers' compensation benefits cease,
17 whichever is later;
- 18 (3) Certification is made by the head of the agency in
19 which the member is employed, stating the time, place,
20 and conditions of the service performed by the member
21 resulting in the member's disability and that the



1 disability was not the result of wilful negligence on
2 the part of the member; and

3 (4) The medical board certifies that the member is
4 incapacitated for the further performance of duty at
5 the time of application and that the member's
6 incapacity is likely to be permanent.

7 (b) In the case of firefighters, police officers, and
8 sewer workers, the effect of the inhalation of smoke, toxic
9 gases, chemical fumes, and other toxic vapors on the heart,
10 lungs, and respiratory system shall be construed as an injury
11 received or disease contracted while in the performance of their
12 duty and as the result of some occupational hazard for the
13 purpose of determining occupational disability retirement under
14 this section.

15 Notwithstanding any other law to the contrary, any
16 condition of impairment of health caused by any disease of the
17 heart, lungs, or respiratory system, resulting in permanent
18 incapacity to a firefighter, police officer, or sewer worker,
19 shall be presumed to have been suffered in the actual
20 performance of duty at some definite time and place through no
21 wilful negligence on the firefighter's, police officer's, or
22 sewer worker's part, and as a result of the inherent



1 occupational hazard of exposure to and inhalation of smoke,
2 toxic gases, chemical fumes, and other toxic vapors, unless the
3 contrary be shown by competent evidence; provided that such
4 firefighter, police officer, or sewer worker shall have passed a
5 physical examination on entry into such service or subsequent to
6 such entry, which examination failed to reveal any evidence of
7 such condition.

8 (c) If a firefighter has completed five years or more of
9 service under the state system and dies or develops an illness
10 due to cancer, blood-borne infectious disease, or exposure to a
11 biochemical substance, the cancer, blood-borne infectious
12 disease, or exposure to a biochemical substance that has
13 developed or manifested itself in those cases shall be presumed
14 to have been suffered in the actual performance of duty at some
15 definite time and place through no wilful negligence on the
16 firefighter's part.

17 (d) Notwithstanding the existence of nonindustrial
18 predisposing or contributing factors, any firefighter member
19 permanently incapacitated for the performance of duty as a
20 result of cancer shall receive a service-connected disability
21 retirement if the member demonstrates that the member was



1 exposed to a known carcinogen as a result of performance of job
2 duties.

3 (e) The presumptions in subsections (c) and (d) are
4 disputable and may be controverted by evidence that the
5 carcinogen to which the firefighter has demonstrated exposure is
6 not reasonably linked to the disabling cancer; provided that the
7 primary site of the cancer has been established. The
8 presumptions in subsections (c) and (d) shall be extended to a
9 firefighter following termination of service for a period of
10 three calendar months for each full year of the requisite
11 service. This extension shall not exceed sixty months in any
12 circumstance, commencing with the last date actually worked in
13 the specified capacity.

14 [~~e~~] (f) The board may waive strict compliance with the
15 time limits within which a report of the accident and an
16 application for service-connected disability retirement must be
17 filed with the board if it is satisfied that the failure to file
18 within the time limited by law was due to ignorance of fact or
19 law, inability, or to the fraud, misrepresentation, or deceit of
20 any person, or because the applicant was undergoing treatment
21 for the disability or was receiving vocational rehabilitation
22 services occasioned by the disability.



1 ~~[(d)]~~ (g) The board may determine whether or not the
2 disability is the result of an accident occurring while in the
3 actual performance of duty at some definite time and place and
4 that the disability was not the result of wilful negligence on
5 the part of the member. The board may accept as conclusive:

- 6 (1) The certification made by the head of the agency in
7 which the member is employed; or
8 (2) A finding to this effect by the medical board.

9 ~~[(e)]~~ (h) Upon approval by the board, the member shall be
10 eligible to receive a service-connected disability retirement
11 benefit after the member has terminated service. Retirement
12 shall become effective on the first day of a month, except for
13 the month of December when retirement on the first or last day
14 of the month shall be allowed.

15 (i) For purposes of this section:

16 "Biochemical substance" means any biological or chemical
17 agent that may be used as a weapon of mass destruction,
18 including any chemical warfare agent, weaponized biological
19 agent, or nuclear or radiological agent.

20 "Blood-borne infectious disease" means a disease caused by
21 exposure to pathogenic microorganisms that are present in human
22 blood that can cause disease in humans, including those



1 pathogenic microorganisms determined as blood-borne pathogens by
2 the department of health.

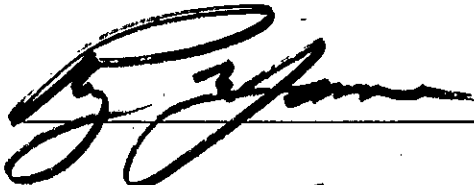
3 "Known carcinogen" means those carcinogenic agents
4 recognized by the International Agency for Research on Cancer,
5 or the director of labor and industrial relations."

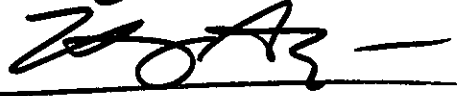
6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2014.

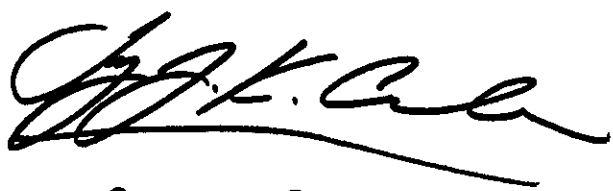
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INTRODUCED BY:









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JAN 15 2014



H.B. NO. 1705

Report Title:

Firefighters; Service Connected Disability; Presumption

Description:

Provides firefighters with comprehensive medical coverage through workers compensation law and service connected disability retirement benefits through a presumptive law for cancer, blood-borne infectious diseases, and exposure to a biochemical substance. Effective July 1, 2014.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

