

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 501

Introduced by Cavanaugh, M., 6; Blood, 3; Conrad, 46; Day, 49;
Fredrickson, 20; Vargas, 7; Wayne, 13.

Read first time January 17, 2023

Committee:

1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
2 amend section 48-1,110, Reissue Revised Statutes of Nebraska; to
3 provide for compensability of certain cancers in firefighters; to
4 create rebuttable presumptions; to define terms; to harmonize
5 provisions; and to repeal the original section.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Firefighter includes both professional and volunteer
3 firefighters;

4 (b) Professional firefighter means a person who has been employed
5 for five or more years in this state in a full-time salaried occupation
6 as:

7 (i) A firefighter for the benefit or safety of the public;

8 (ii) An investigator of fires or arson; or

9 (iii) An instructor or officer for the provision of training
10 concerning fire or hazardous materials; and

11 (c) Volunteer firefighter means a person who has acted for five or
12 more years in this state as a volunteer firefighter described in
13 subdivision (3) of section 48-115.

14 (2) Notwithstanding any provision of the Nebraska Workers'
15 Compensation Act to the contrary, cancer that results in either temporary
16 or permanent disability or death is an occupational disease and
17 compensable as such under the act if:

18 (a) The cancer develops or manifests itself out of and in the course
19 of the employment of a firefighter; and

20 (b) It is demonstrated that:

21 (i) The firefighter was exposed, while in the course of employment,
22 to a known carcinogen or a substance reasonably anticipated to be a human
23 carcinogen, as defined by the International Agency for Research on Cancer
24 or the National Toxicology Program; and

25 (ii) Such carcinogen is reasonably associated with such cancer.

26 (3) With respect to a firefighter, the following substances shall be
27 deemed, for purposes of subsection (2) of this section, to be known
28 carcinogens that are reasonably associated with the following cancers:

29 (a) Diesel exhaust, formaldehyde, and polycyclic aromatic
30 hydrocarbon shall be deemed to be known carcinogens that are reasonably
31 associated with bladder cancer;

1 (b) Acrylonitrile, formaldehyde, and vinyl chloride shall be deemed
2 to be known carcinogens that are reasonably associated with brain cancer;

3 (c) Asbestos, benzene, diesel exhaust and soot, digoxin, ethylene
4 oxide, polychlorinated biphenyls, and polycyclic aromatic hydrocarbon
5 shall be deemed to be known carcinogens that are reasonably associated
6 with breast cancer;

7 (d) Diesel exhaust and formaldehyde shall be deemed to be known
8 carcinogens that are reasonably associated with colon cancer;

9 (e) Diesel exhaust and soot, formaldehyde, and polycyclic aromatic
10 hydrocarbon shall be deemed to be known carcinogens that are reasonably
11 associated with esophageal cancer;

12 (f) Formaldehyde shall be deemed to be a known carcinogen that is
13 reasonably associated with Hodgkin's lymphoma;

14 (g) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed
15 to be known carcinogens that are reasonably associated with kidney
16 cancer;

17 (h) Benzene, diesel exhaust and soot, formaldehyde, 1,3-butadiene,
18 and polycyclic aromatic hydrocarbon shall be deemed to be known
19 carcinogens that are reasonably associated with leukemia;

20 (i) Chloroform, soot, and vinyl chloride shall be deemed to be known
21 carcinogens that are reasonably associated with liver cancer;

22 (j) Arsenic, asbestos, cadmium, chromium compounds, oils, polycyclic
23 aromatic hydrocarbon, radon, silica, soot, and tars shall be deemed to be
24 known carcinogens that are reasonably associated with lung cancer;

25 (k) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic
26 hydrocarbon, soot, and vinyl chloride shall be deemed to be known
27 carcinogens that are reasonably associated with lymphatic or
28 haemotopoietic cancer;

29 (l) Diesel exhaust and soot, aldehydes, and polycyclic aromatic
30 hydrocarbon shall be deemed to be known carcinogens that are reasonably
31 associated with basal cell carcinoma, squamous cell carcinoma and

1 malignant melanoma;

2 (m) Benzene, dioxins, and glyphosate shall be deemed to be known
3 carcinogens that are reasonably associated with multiple myeloma;

4 (n) Arsenic, asbestos, benzene, diesel exhaust and soot,
5 formaldehyde, and hydrogen chloride shall be deemed to be known
6 carcinogens that are reasonably associated with nasopharyngeal cancer,
7 including laryngeal cancer and pharyngeal cancer;

8 (o) Benzene, chronic hepatitis B and C viruses, formaldehyde, and
9 polychlorinated biphenyls shall be deemed to be known carcinogens that
10 are reasonably associated with non-Hodgkin's lymphoma;

11 (p) Asbestos, benzene, and formaldehyde shall be deemed to be known
12 carcinogens that are reasonably associated with ovarian cancer;

13 (q) Polycyclic aromatic hydrocarbon shall be deemed to be a known
14 carcinogen that is reasonably associated with pancreatic cancer;

15 (r) Acrylonitrile, benzene, and formaldehyde shall be deemed to be
16 known carcinogens that are reasonably associated with prostate cancer;

17 (s) Diesel exhaust and soot, formaldehyde, and polycyclic aromatic
18 hydrocarbon shall be deemed to be known carcinogens that are reasonably
19 associated with rectal cancer;

20 (t) Chlorophenols, chlorophenoxy herbicides, and polychlorinated
21 biphenyls shall be deemed to be known carcinogens that are reasonably
22 associated with soft tissue sarcoma;

23 (u) Diesel exhaust and soot, formaldehyde, and polycyclic aromatic
24 hydrocarbon shall be deemed to be known carcinogens that are reasonably
25 associated with stomach cancer;

26 (v) Diesel exhaust and soot, and polychlorinated biphenyls shall be
27 deemed to be known carcinogens that are reasonably associated with
28 testicular cancer;

29 (w) Diesel exhaust, benzene, and X-ray radiation shall be deemed to
30 be known carcinogens that are reasonably associated with thyroid cancer;

31 (x) Diesel exhaust and soot, formaldehyde, and polycyclic aromatic

1 hydrocarbon shall be deemed to be known carcinogens that are reasonably
2 associated with urinary tract cancer and ureteral cancer; and

3 (y) Benzene and polycyclic aromatic hydrocarbon shall be deemed to
4 be known carcinogens that are reasonably associated with uterine cancer.

5 (4) Subsection (3) of this section is not an exhaustive list and
6 shall not preclude any person from demonstrating, on a case-by-case basis
7 for the purposes of subsection (2) of this section, that a substance is a
8 known carcinogen or is reasonably anticipated to be a human carcinogen,
9 including an agent classified by the International Agency for Research on
10 Cancer in Group 1 or Group 2A, that is reasonably associated with a
11 cancer.

12 (5) There shall be a rebuttable presumption that a cancer
13 experienced by a firefighter arose out of and in the course of employment
14 if the cancer is diagnosed during the course of the firefighter's
15 employment.

16 (6)(a) There shall be a rebuttable presumption, for purposes of
17 subsection (2) of this section, that cancer experienced by a retired
18 firefighter arose out of and in the course of employment if the cancer is
19 diagnosed within a period, not to exceed sixty months, which begins with
20 the last date the retired firefighter actually worked in the qualifying
21 capacity and extends for a period calculated by multiplying three months
22 by the number of full years of such employment.

23 (b) This subsection applies to a professional firefighter who
24 retires before January 1, 2024, and to a volunteer firefighter,
25 regardless of the date of retirement.

26 (7) There shall be a rebuttable presumption, for purposes of
27 subsection (2) of this section, that cancer experienced by a professional
28 firefighter who retires on or after January 1, 2024, arose out of and in
29 the course of employment if such cancer was diagnosed:

30 (a) If the firefighter ceases employment before completing twenty
31 years of service as a professional firefighter, during the period after

1 separation from employment which is equal to the number of years worked;
2 or

3 (b) If the firefighter ceases employment after completing twenty
4 years or more of service as a professional firefighter, investigator,
5 instructor, at any time during the person's life.

6 (8) Service credit which is purchased in a retirement system shall
7 not be used to calculate the number of years of service or employment for
8 purposes of this section.

9 (9) A person who files a claim for benefits for cancer pursuant to
10 subsection (7) of this section after retiring from employment as a
11 professional firefighter is not entitled to receive any compensation for
12 such cancer under the Nebraska Workers' Compensation Act other than
13 medical benefits.

14 Sec. 2. Section 48-1,110, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 48-1,110 Sections 48-101 to 48-1,117 and section 1 of this act shall
17 be known and may be cited as the Nebraska Workers' Compensation Act.

18 Sec. 3. Original section 48-1,110, Reissue Revised Statutes of
19 Nebraska, is repealed.