

SENATE BILL 438

By Bell

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 51; Title 50, Chapter 6 and Title 68, Chapter 102, relative to firefighters.

WHEREAS, firefighters, when engaged in fire suppression, are exposed to heat, smoke, fumes, and other carcinogenic, poisonous, toxic, or chemical substances; and

WHEREAS, continued exposure to such carcinogenic, poisonous, toxic, and chemical substances are harmful to the long-term health of firefighters; and

WHEREAS, according to the research by the National Institute of Occupational Safety and Health, firefighters have a higher incidence of respiratory, urinary, and digestive tract cancers compared to the general public; and

WHEREAS, cancer is the most significant health-related issue facing the fire suppression profession. According to the International Association of Fire Fighters' Cancer Occupational Disease Database, fifty-six percent of the firefighters who died in the line of duty since 2002 have died of occupational cancers; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 51, Part 2, is amended by adding the following as a new section:

(a) This section shall be known and may be cited as the "Tennessee Firefighter Cancer Act."

(b)

(1) A rebuttable presumption that a firefighter's cancer that causes a disabling health condition is a result of the firefighter's duties is created if the firefighter:

(A) Has been exposed to heat, smoke, and fumes or carcinogenic, poisonous, toxic, or chemical substances while performing the duties of a firefighter;

(B) Has completed five (5) or more years in classified service;
and

(C) Is subsequently unable to perform the regular duties of a firefighter because of the cancer.

(2) The presumption created in subdivision (b)(1) may be rebutted by a preponderance of the evidence that the cancer was not caused by the firefighter's duties.

(c) Following a firefighter's termination of service, a firefighter may receive the benefit of the presumption created by subdivision (b)(1) for a period of four (4) months for each full year of classified service but is limited to a maximum of one hundred twenty (120) months following termination.

(d) The general assembly intends this section to be remedial in nature.

(e)

(1) An employer may require a firefighter to submit to a pre-employment and annual medical examination that screens for cancer.

(2) If the employer requires medical examinations pursuant to subdivision (e)(1), the employer must pay for the examinations.

(3) If an employer requires medical examination pursuant to subdivision (e)(1) and the firefighter does not submit to the examination, then the firefighter is not entitled to the presumption created in subdivision (b)(1).

(f) A firefighter who is diagnosed with cancer and that firefighter's survivors are entitled to all rights and benefits as granted by state law to which one suffering an occupational injury is entitled as service connected in the line of duty.

(g) This section does not affect a person's rights under § 7-51-205 and does not limit any benefit in effect in the state.

(h) As used in this section:

(1) "Cancer" includes colon cancer, lung cancer, melanoma skin cancer, non-melanoma skin cancer, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, rectal cancer, and stomach cancer;

(2) "Classified service" means any job classification that requires a firefighter to respond to the scene of incidents and extinguish or control fires or fire-related incidents;

(3) "Employer" means the state or any political subdivision of the state;
and

(4) "Firefighter" means any full-time, paid employee of a fire department of the state or a political subdivision of the state.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.