

SENATE FILE NO. SF0089

Presumptive disability for firefighters.

Sponsored by: Senator(s) Landen and Representative(s)  
Walters

A BILL

for

1 AN ACT relating to labor and employment; providing for a  
2 rebuttable presumption of disabilities for firefighters;  
3 listing subject diseases; providing eligibility for  
4 specified benefits to which the presumption applies;  
5 outlining criteria for presumptions; providing rulemaking  
6 authority; specifying applicability; and providing for an  
7 effective date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 27-15-101 through 27-15-103 are  
12 created to read:

13

14

CHAPTER 15

15

PRESUMPTIVE DISABILITY FOR CERTAIN DISEASES

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2           **27-15-101. Definitions.**

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4           (a) As used in this act:

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6                   (i) "Firefighter" means a paid fireman defined  
7 under W.S. 15-5-201(a)(xi), a firefighter member under W.S.  
8 9-3-402(a)(xxv), an employee under W.S. 15-5-402(a)(viii),  
9 a volunteer fireman defined under W.S. 15-5-201(a)(xiv) and  
10 a volunteer firefighter or firefighter defined under W.S.  
11 35-9-616(a)(x). "Firefighter" also means an individual  
12 employed by a municipal corporation or private organization  
13 who devotes the individual's entire time of employment to  
14 the provision of fire protection service for a city, town,  
15 county or fire protection district;

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17                   (ii) "Listed disease" means any of the  
18 following:

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20                           (A) Cancer, lymphoma or leukemia that may  
21 be caused by exposure to heat, smoke, radiation or a known  
22 or suspected carcinogen as determined by the International  
23 Agency for Research on Cancer;

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(B) Cardiovascular disease;

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(C) Acute myocardial infarction or stroke;

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(D) A disease, illness, health impairment or disability determined on a case-by-case basis under W.S. 27-15-102(h).

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(iii) "Minimum period of employment" means:

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(A) Employment as a firefighter for at least ten (10) years; and

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(B) For volunteer firefighters, an individual is considered to have been employed for the minimum period of employment if that individual while actively a volunteer participates or participated in a minimum of forty percent (40%) of the drills conducted by the individual's department and a minimum of twenty-five percent (25%) of the emergency calls received during the time the volunteer serves or served on call. Volunteer

1 firefighter departments shall keep individual records that  
2 document the criteria in this subparagraph.

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4 (iv) "This act" means W.S. 27-15-101 through  
5 27-15-103.

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7 **27-15-102. Presumption of occupational disability;**  
8 **applicability; exceptions.**

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10 (a) A firefighter who suffers from a listed disease  
11 is presumed to have developed that listed disease during  
12 the course and scope of employment. The listed disease is  
13 presumed to be an occupational disease, the dominant cause  
14 of which is the employment as a firefighter, unless the  
15 contrary is proven.

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17 (b) A presumption established under this act applies  
18 to a determination of whether a firefighter's injury,  
19 disease, illness, health impairment, disability or death  
20 resulted from a listed disease contracted in the course and  
21 scope of employment for purposes of benefits or  
22 compensation provided under:

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1           (i) Firefighter retirement and disability  
2 retirement plans administered by the Wyoming retirement  
3 board under W.S. 9-3-401 through 9-3-431, 15-5-201 through  
4 15-5-209, 15-5-401 through 15-5-422 and 35-9-616 through  
5 35-9-628;

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7           (ii) Workers' compensation benefits paid by or  
8 on behalf of an employer to an employee under the  
9 provisions of W.S. 27-14-101 through 27-14-806;

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11           (iii) University of Wyoming and Wyoming  
12 community college tuition and fees as provided under  
13 W.S. 21-16-1501(h) and (j).

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15           (c) The presumption in subsection (a) of this section  
16 applies only to a firefighter who:

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18           (i) Is employed for not less than the minimum  
19 period of employment and seeks the presumption within ten  
20 (10) years after cessation of employment;

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22           (ii) Has been exposed to the hazards involved in  
23 firefighting during the minimum period of employment; and

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2 (iii) On becoming employed or during employment  
3 as a firefighter received a physical examination that  
4 failed to reveal evidence of the listed disease for which  
5 the presumption is sought.

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7 (d) The presumption in subsection (a) of this section  
8 does not apply:

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10 (i) If the listed disease is known to be caused  
11 by smoking tobacco and the firefighter:

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13 (A) Is a regular user of tobacco for ten  
14 (10) or more years; or

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16 (B) Was a regular user of tobacco for ten  
17 (10) or more years and it has been fewer than ten (10)  
18 years since the firefighter gave up the use of tobacco  
19 products.

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21 (ii) In a cause of action brought in a state or  
22 federal court except for judicial review of a proceeding in

1 which there has been a grant or denial of  
2 employment-related benefits or compensation.

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4 (e) This act does not create a cause of action.

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6 (f) This act does not enlarge or establish a right to  
7 any benefit or compensation or eligibility for any benefit  
8 or compensation.

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10 (g) A firefighter who qualifies for a presumption  
11 established under this act is entitled only to the benefits  
12 or compensation to which the firefighter would otherwise be  
13 entitled to receive at the time the claim for benefits or  
14 compensation is filed.

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16 (h) A presumption under this act is not limited to  
17 the current listed diseases. A firefighter is not precluded  
18 from a case-by-case demonstration before the Wyoming  
19 workers' compensation medical commission that the dominant  
20 cause of the firefighter's disease, illness, health  
21 impairment or disability is or was employment as a  
22 firefighter.

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2 (j) Paragraph (d)(i) of this section only prevents  
3 the application of the presumption authorized by this  
4 chapter and does not affect the right of a firefighter to  
5 provide proof, without the use of the presumption, that an  
6 injury, disease, illness, health impairment or disability  
7 occurred during the course and scope of employment.

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9 **27-15-103. Presumption rebuttal.**

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11 A person opposed to the award of benefits or compensation  
12 listed under W.S. 27-15-102(b) may rebut the presumption  
13 under this act through a showing by a clear and convincing  
14 evidence that a risk factor, accident, hazard or other  
15 cause not associated with the firefighter's service was the  
16 dominant cause of the listed disease.

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18 **Section 2.** W.S. 27-14-616(b) by creating a new  
19 paragraph (vi) is amended to read:

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21 **27-14-616. Medical commission; hearing panels;**  
22 **creation; membership; duties; rulemaking.**

23



1           (b) One (1) member shall be elected by commission  
2 members as chairman and one (1) as vice-chairman. The  
3 division shall designate an employee to serve as executive  
4 secretary of the commission or contract with an individual  
5 to provide executive secretary services to the commission.  
6 The governor may appoint no more than eleven (11)  
7 additional health care providers as associate members of  
8 the commission whose function is limited to serving as  
9 members of individual medical hearing panels. Except for  
10 initial members, the terms of commission members and  
11 associate members shall be three (3) years. Three (3)  
12 members of the initial commission and three (3) initial  
13 associate members shall be appointed to a one (1) year term  
14 and four (4) initial commission members and four (4)  
15 initial associate members shall be appointed to a two (2)  
16 year term. The duties of the commission shall be:

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18                   (vi) To establish by rule and regulation  
19 procedures for decisions pursuant to W.S. 27-15-102(h) and  
20 for rebuttals pursuant to W.S. 27-15-103 and to adopt other  
21 rules as necessary to implement W.S. 27-15-101 through  
22 27-15-103.

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1       **Section 3.** This act is effective July 1, 2017.

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(END)