

1 S.73

2 Introduced by Senator Baruth

3 Referred to Committee on Econ. Dev., Housing and General Affairs

4 Date: February 28, 2023

5 Subject: Labor; workers' compensation; firefighters; cancer

6 Statement of purpose of bill as introduced: This bill proposes to add breast
7 cancer, thyroid cancer, and cancers originating in the reproductive system to
8 the cancers for which a firefighter may be eligible to receive workers'
9 compensation.

10 An act relating to workers' compensation coverage for firefighters with
11 cancer

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 ~~Sec. 1, 21 V.S.A. § 601 is amended to read:~~

14 § 601. DEFINITIONS

15 ~~Unless the context otherwise requires, words and phrases used in this~~
16 ~~chapter shall be construed as follows~~ As used in this chapter:

17 * * *

18 (11) "Personal injury by accident arising out of and in the course of
19 employment" includes an injury caused by the willful act of a third person
20 ~~directed against an employee because of that employment.~~

1 * * *

2 (E) In the case of a firefighter, as defined in 20 V.S.A. § 3151(3) and
3 (4), who dies or has a disability from a cancer listed in subdivision (iii) of this
4 subdivision (E), the firefighter shall be presumed to have had the cancer as a
5 result of exposure to conditions in the line of duty, unless it is shown by a
6 preponderance of the evidence that the cancer was caused by nonservice-
7 connected risk factors or nonservice-connected exposure, provided:

8 (i)(I) the firefighter completed an initial and any subsequent
9 cancer screening evaluations as recommended by the American Cancer Society
10 based on the age and sex of the firefighter prior to becoming a firefighter or
11 within two years of July 1, 2007, and the evaluation indicated no evidence of
12 cancer;

13 (II) the firefighter was engaged in firefighting duties or other
14 hazardous activities over a period of at least five years in Vermont prior to the
15 diagnosis; and

16 (III) the firefighter is under 65 years of age.

17 (ii) The presumption shall not apply to any firefighter who has
18 used tobacco products at any time within 10 years of the date of diagnosis.

19 (iii) The disabling cancer shall be limited to leukemia, lymphoma,
20 or multiple myeloma, and cancers originating in the bladder, brain, breast,

1 ~~colon, gastrointestinal tract, kidney, liver, pancreas, reproductive system, skin,~~
2 or testicles thyroid.

3 (F) A firefighter who is diagnosed with cancer within 10 years of the
4 last active date of employment as a firefighter shall be eligible for benefits
5 under this subdivision. The date of injury shall be the date of the last injurious
6 exposure as a firefighter.

7 (G) It is recommended that fire departments:

8 (i) maintain incident report records for at least 10 years; and

9 (ii) offer or provide annual cancer screenings to all firefighters
10 who are employed by or who volunteer for the department.

11 * * *

12 Sec. 2. EFFECTIVE DATE

13 ~~This act shall take effect on July 1, 2023.~~

~~Sec. 1. 21 V.S.A. § 601 is amended to read:~~

~~§ 601. DEFINITIONS~~

~~Unless the context otherwise requires, words and phrases used in this
chapter shall be construed as follows As used in this chapter:~~

~~* * *~~

~~(11) "Personal injury by accident arising out of and in the course of
employment" includes an injury caused by the willful act of a third person
directed against an employee because of that employment.~~

~~* * *~~

~~(E) In the case of a firefighter, as defined in 20 V.S.A. § 3151(3) and
(4), who dies or has a disability from a cancer listed in subdivision (iii) of this
subdivision (E), the firefighter shall be presumed to have had the cancer as a
result of exposure to conditions in the line of duty unless it is shown by~~

~~preponderance of the evidence that the cancer was caused by nonservice-connected risk factors or nonservice-connected exposure, provided:~~

~~(i)(I) the firefighter completed an initial and any subsequent cancer screening evaluations as recommended by the American Cancer Society based on the age and sex of the firefighter prior to becoming a firefighter or within two years of July 1, 2007 while serving as a firefighter, and the evaluation indicated no evidence of cancer;~~

~~(II) the firefighter was engaged in firefighting duties or other hazardous activities over a period of at least five years in Vermont prior to the diagnosis; and~~

~~(III) the firefighter is under 65 years of age.~~

~~(ii) The presumption shall not apply to any firefighter who has used tobacco products at any time within 10 years of the date of diagnosis.~~

~~(iii) The disabling cancer shall be limited to leukemia, lymphoma, or multiple myeloma, and cancers originating in the bladder, brain, breast, colon, gastrointestinal tract, kidney, liver, pancreas, reproductive system, skin, or testicles thyroid.~~

~~(F) A firefighter who is diagnosed with cancer within 10 years of the last active date of employment as a firefighter shall be eligible for benefits under this subdivision. The date of injury shall be the date of the last injurious exposure as a firefighter.~~

~~(G) It is recommended that fire departments:~~

~~(i) maintain incident report records for at least 10 years; and~~

~~(ii) offer or provide annual cancer screenings to all firefighters who are employed by or who volunteer for the department.~~

~~* * *~~

~~Sec. 2. ANNUAL CANCER SCREENINGS; PERSONAL PROTECTIVE EQUIPMENT UPGRADES; REPORT~~

~~(a) On or before January 15, 2024, the Director of the Division of Fire Safety shall submit a written report to the House Committees on Appropriations, on Commerce and Economic Development, and on Government Operations and Military Affairs and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Government Operations regarding the following topics:~~

~~(1) the projected cost for the State to fund annual or biennial cancer screenings for all career and volunteer firefighters in Vermont;~~

~~(2) the projected cost for the State to fund cancer screenings for all enrollees in the Vermont Fire Academy Firefighter I certification program prior to the commencement of training;~~

~~(3) potential opportunities for the State to reduce the cost for fire departments to provide annual cancer screenings for their firefighters;~~

~~(4) the projected cost for the State to fund the replacement of personal protective equipment for all volunteer and career firefighters on a rolling basis so that all personal protective equipment is replaced within 10 years after being acquired; and~~

~~(5) potential opportunities for the State to reduce the cost to fire departments for the replacement of personal protective equipment~~

~~(4) the projected cost for the State to fund the replacement of personal protective equipment for all volunteer and career firefighters on a rolling basis so that all personal protective equipment is replaced within 10 years after being acquired;~~

~~(5) potential opportunities for the State to reduce the cost to fire departments for the replacement of personal protective equipment; and~~

~~(6) the potential impact of amending or repealing the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter is either over 65 years of age or has used tobacco products within the last 10 years.~~

~~(a) The report may include recommendations for legislative action to facilitate.~~

~~(1) the early identification of cancer in firefighters;~~

~~(2) the acquisition of personal protective equipment by fire departments;
and~~

~~(3) the elimination of PFAS and other carcinogens in firefighting equipment~~

~~(b) The report may include recommendations for legislative action to:~~

~~(1) facilitate:~~

~~(A) the early identification of cancer in firefighters;~~

~~(B) the acquisition of personal protective equipment by fire departments; and~~

~~(C) the elimination of PFAS and other carcinogens in firefighting equipment; and~~

~~(2) amend or repeal the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter is either over 65 years of age or has used tobacco products within the last 10 years.~~

Sec. 3. EFFECTIVE DATE

~~*This act shall take effect on July 1, 2023.*~~

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

~~*Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows As used in this chapter:*~~

~~* * *~~

~~(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.~~

~~* * *~~

~~(E) In the case of a firefighter, as defined in 20 V.S.A. § 3151(3) and (4), who dies or has a disability from a cancer listed in subdivision (iii) of this subdivision (E), the firefighter shall be presumed to have had the cancer as a result of exposure to conditions in the line of duty, unless it is shown by a preponderance of the evidence that the cancer was caused by nonservice-connected risk factors or nonservice-connected exposure, provided:~~

~~(i)(I) the firefighter completed an initial and any subsequent cancer screening evaluations as recommended by the American Cancer Society based on the age and sex of the firefighter prior to becoming a firefighter or within two years of July 1, 2007 while serving as a firefighter, and the evaluation indicated no evidence of cancer;~~

~~(II) the firefighter was engaged in firefighting duties or other hazardous activities over a period of at least five years in Vermont prior to the diagnosis; and~~

~~(III) the firefighter is under 65 years of age.~~

~~(ii) The presumption shall not apply to any firefighter who has used tobacco products at any time within 10 years of the date of diagnosis.~~

~~(iii) The disabling cancer shall be limited to leukemia, lymphoma, or multiple myeloma, and cancers originating in the bladder, brain, breast, colon, gastrointestinal tract, kidney, liver, lung, pancreas, reproductive system, skin, or testicles thyroid.~~

(F) A firefighter who is diagnosed with cancer within 10 years of the last active date of employment as a firefighter shall be eligible for benefits under this subdivision. The date of injury shall be the date of the last injurious exposure as a firefighter.

(G) It is recommended that fire departments:

(i) maintain incident report records for at least 10 years; and

(ii) offer or provide annual cancer screenings to all firefighters who are employed by or who volunteer for the department.

** * **

Sec. 2. ANNUAL CANCER SCREENINGS; PERSONAL PROTECTIVE EQUIPMENT UPGRADES; REPORT

(a) On or before January 15, 2024, the Director of the Division of Fire Safety shall submit a written report to the House Committees on Appropriations, on Commerce and Economic Development, and on Government Operations and Military Affairs and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Government Operations regarding the following topics:

(1) the projected cost for the State to fund annual or biennial cancer screenings for all career and volunteer firefighters in Vermont;

(2) the projected cost for the State to fund cancer screenings for all enrollees in the Vermont Fire Academy Firefighter I certification program prior to the commencement of training;

(3) potential opportunities for the State to reduce the cost for fire departments to provide annual cancer screenings for their firefighters;

(4) the projected cost for the State to fund the replacement of personal protective equipment for all volunteer and career firefighters on a rolling basis so that all personal protective equipment is replaced within 10 years after being acquired; and

(5) potential opportunities for the State to reduce the cost to fire departments for the replacement of personal protective equipment.

(b) The report may include recommendations for legislative action to facilitate:

(1) the early identification of cancer in firefighters;

(2) the acquisition of personal protective equipment by fire departments;
and

(3) the elimination of PFAS and other carcinogens in firefighting equipment.

**Sec. 3. WORKERS' COMPENSATION FOR FIREFIGHTERS WITH
CANCER; ELIGIBILITY; REPORT**

(a) On or before January 15, 2024, the Commissioners of Labor and of Financial Regulation, in consultation with the Director of the Division of Fire Safety, shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the following topics:

(1) the potential impacts on workers' compensation claims, premiums, and loss costs of amending or repealing the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter:

(A) is over 65 years of age; or

(B) has used tobacco products within the last 10 years;

(2) the potential impacts on workers' compensation claims, premiums, and loss costs of amending 21 V.S.A. § 601(11)(E)(iii) to expand the list of cancers presumed to have been caused by exposure to working conditions as a firefighter, including:

(A) additional types of cancer:

(i) that occur more frequently in firefighters than the general public;

(ii) that are caused by carcinogens to which firefighters are exposed in the line of duty; or

(iii) both; or

(B) all forms of cancer; and

(3) potential methods for apportioning liability for workers' compensation in instances where a firefighter has been employed by more than one fire department, including when a firefighter is employed as a career firefighter by one department and a volunteer firefighter by another department.

(b) The report may include recommendations for legislative action to:

(1) amend or repeal the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter is over 65 years of age or has used tobacco products within the last 10 years; and

(2) amend 21 V.S.A. § 601(11)(E)(iii) to expand the list of cancers presumed to have been caused by exposure to working conditions as a firefighter to include either:

(A) additional types of cancer:

(i) that occur more frequently in firefighters than the general public;

(ii) that are caused by carcinogens to which firefighters are exposed in the line of duty; or

(iii) both; or

(B) all forms of cancer.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2023.