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S.73

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

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

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

1 ~~within two years of July 1, 2007~~ while serving as a firefighter, and the
2 evaluation indicated no evidence of cancer;

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

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

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

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

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

17 (G) It is recommended that fire departments:

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

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

21 * * *

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

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

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

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

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

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

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

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

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

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

5 and

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

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

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

15 (1) the potential impacts on workers' compensation claims, premiums,
16 and loss costs of amending or repealing the provisions of 21 V.S.A.

17 § 601(11)(E) that bar a firefighter from the presumption that the firefighter's
18 cancer resulted from work-related exposure if the firefighter:

19 (A) is over 65 years of age; or

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

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

5 (A) additional types of cancer:

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

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

10 (iii) both; or

11 (B) all forms of cancer; and

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

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

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

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

4 (A) additional types of cancer:

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

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

9 (iii) both; or

10 (B) all forms of cancer.

11 Sec. 4. EFFECTIVE DATE

12 This act shall take effect on July 1, 2023.