

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE DRH80311-LR-118A (04/04)

Short Title: WC/Firefighter Occupational Diseases. (Public)

Sponsors: Committee on Rules, Calendar, and Operations of the House.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A PRESUMPTION THAT CERTAIN INFECTIOUS DISEASE,
3 RESPIRATORY DISEASE, HYPERTENSION, HEART DISEASE, AND CERTAIN
4 CANCERS ARE OCCUPATIONAL DISEASES FOR FIREFIGHTERS EMPLOYED BY
5 UNITS OF LOCAL GOVERNMENT THAT ARE COVERED BY THE WORKERS'
6 COMPENSATION ACT.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 97-53 reads as rewritten:

9 "§ 97-53. Occupational diseases ~~enumerated; when due to exposure to~~
10 ~~chemicals.enumerated.~~

11 (a) Occupational Diseases Due to Exposure to Chemicals. – The following diseases and
12 conditions only shall be deemed to be occupational diseases within the meaning of this Article:

13 ...

14 (6) ~~Lead poisoning. Provided poisoning if the employee shall have been was~~
15 ~~exposed to the hazard of lead poisoning for at least 30 days in the preceding~~
16 ~~12 months' period; and, provided further, only 12-month period. Only the~~
17 ~~employer in whose employment such employee was last injuriously exposed~~
18 ~~shall be liable.~~

19 ...

20 Occupational diseases caused by chemicals shall be deemed to be due to exposure of an
21 employee to the chemicals herein mentioned only when as a part of the employment such
22 employee is exposed to such chemicals in such form and quantity, and used with such
23 frequency as to cause the occupational disease mentioned in connection with such chemicals.

24 (b) Occupational Diseases of Firefighters. – Any condition or impairment of health
25 caused by any of the following shall be deemed to be occupational diseases of firefighters
26 within the meaning of this Article:

27 (1) Hypertension.

28 (2) Heart disease.

29 (3) Respiratory disease.

30 (4) Cancer that manifests itself in a firefighter during or after the period in
31 which the firefighter is in the service of the unit of local government.

32 (5) Hepatitis that manifests itself in a firefighter during or five years after the
33 period in which the firefighter is in the service of the unit of local
34 government.

35 (6) HIV that manifests itself in a firefighter during or five years after the period
36 in which the firefighter is in the service of the unit of local government."



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1 **SECTION 2.** Article 1 of Chapter 97 of the General Statutes is amended by adding
2 a new section to read:

3 **"§ 97-53.1. Compensability of firefighter occupational diseases.**

4 (a) Findings. – The General Assembly finds that:

- 5 (1) Firefighting is a particularly hazardous occupation that requires firefighters
6 to work under constantly changing and often unstable environments.
7 (2) Firefighters are often subjected to stressful life and death situations that
8 require lifting and maneuvering of heavy equipment in extremely hot
9 environments while wearing heavy, specialized personal protective
10 equipment.
11 (3) Firefighters are routinely exposed to hazardous agents such as carbon
12 monoxide, carcinogens, particulate matter, and a broad array of other toxic
13 chemicals generated from the smoke of burning materials.
14 (4) Firefighters as a class face an increased risk of certain infectious diseases,
15 respiratory disease, hypertension, heart disease, and certain cancers as a
16 result of their duties and responsibilities toward the general public.

17 (b) Intent. – Recognizing that firefighting is a hazardous occupation that is essential to
18 protecting the personal safety of the citizens of this State, it is in the interest of the public and
19 the welfare of those who perform firefighting activities to ensure that firefighters are
20 adequately compensated for injuries, illnesses, and deaths that are causally related to their
21 firefighting activities. Therefore, it is the intent of the General Assembly to presume that the
22 diseases specified in G.S. 97-53(b) are occupationally related to firefighting for the purpose of
23 determining eligibility for compensation under the Workers' Compensation Act.

24 (c) Definitions. – The following definitions apply in this section:

- 25 (1) Disability. – Incapacity because of an occupational disease described in
26 G.S. 97-53(b) to earn the wages that the firefighter was receiving at the time
27 of manifestation of the occupational disease.
28 (2) Firefighter. – A paid, partially paid, or volunteer member of a fire
29 department of a unit of local government.
30 (3) Hepatitis. – Hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B,
31 hepatitis C, or any other strain of hepatitis generally recognized by the
32 medical community.
33 (4) HIV. – The medically recognized retrovirus known as human
34 immunodeficiency virus, type I or type II, causing immunodeficiency
35 syndrome.

36 (d) Presumed Eligibility. – A firefighter shall be presumed eligible for compensation for
37 occupational disease under this Article if either of the following sets of conditions are met:

- 38 (1) The firefighter was required to submit to a physical examination upon
39 entering the service of the unit of local government as a firefighter, the
40 examination failed to reveal any evidence of a firefighter occupational
41 disease described in G.S. 97-53(b), and the firefighter has completed at least
42 five years of service as a firefighter for the unit of local government.
43 (2) The firefighter was not required to submit to a physical examination upon
44 entering the service of the unit of local government as a firefighter and, at
45 the time of disability by an occupational disease described in G.S. 97-53(b),
46 the firefighter has completed at least five years of continuous service
47 immediately preceding January 1, 2013, as a firefighter for the unit of local
48 government.

49 (e) Burden of Rebuttal. – In the case of cancer, heart disease, hypertension, or
50 respiratory disease, the unit of local government has the burden of proving by a preponderance
51 of competent evidence that the condition was caused by some means other than the firefighter's

1 occupation in order to disqualify the firefighter from receiving compensation for occupational
2 disease pursuant to this section.
3 (f) Applicability. – This section applies to firefighters of units of local government
4 only."
5 **SECTION 3.** This act is effective when it becomes law and applies to claims for
6 workers' compensation benefits filed on or after that date.