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AN ACT

RELATING TO OCCUPATIONAL DISEASE DISABLEMENT; INCLUDING
ADDITIONAL CONDITIONS THAT ARE PRESUMED TO BE PROXIMATELY
CAUSED BY EMPLOYMENT AS A FIREFIGHTER; SPECIFYING EMPLOYMENT
PERIODS FOR CERTAIN CANCERS THAT ARE PRESUMED TO BE
PROXIMATELY CAUSED BY EMPLOYMENT AS A FIREFIGHTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 52-3-32.1 NMSA 1978 (being Laws
2009, Chapter 252, Section 1, as amended) is amended to read:

"52-3-32.1. FIREFIGHTER OCCUPATIONAL CONDITIONS.--

A. As used in this section, "firefighter" means a
person who is employed as a full-time non-volunteer
firefighter by the state or a local government entity and who
has taken the oath prescribed for firefighters.

B. If a firefighter is diagnosed with one or more
of the following conditions after the period of employment
indicated, and the condition was not revealed during an
initial employment medical screening examination or during a
subsequent medical review pursuant to the Occupational Health
and Safety Act and rules promulgated pursuant to that act,
the condition is presumed to be proximately caused by
employment as a firefighter:

(1) the following cancers after five years:

(a) bladder;

1 (b) breast if diagnosed without a
2 breast cancer 1 or breast cancer 2 genetic predisposition to
3 breast cancer;

4 (c) brain;

5 (d) cervical;

6 (e) colon;

7 (f) colorectal;

8 (g) esophageal;

9 (h) kidney;

10 (i) leukemia;

11 (j) lung;

12 (k) malignant melanoma;

13 (l) mesothelioma;

14 (m) multiple myeloma;

15 (n) non-Hodgkin's lymphoma;

16 (o) ovarian;

17 (p) prostate;

18 (q) skin;

19 (r) stomach;

20 (s) testicular if diagnosed with no
21 evidence of anabolic steroids or human growth hormone use;

22 (t) thyroid; and

23 (u) ureter;

24 (2) hepatitis, tuberculosis, diphtheria,
25 meningococcal disease and methicillin-resistant

1 staphylococcus aureus appearing and diagnosed after entry
2 into employment; or

3 (3) posttraumatic stress disorder diagnosed
4 by a physician or psychologist that results in physical
5 impairment, primary or secondary mental impairment or death.

6 C. The presumptions created in Subsections B and D
7 of this section may be rebutted by a preponderance of
8 evidence in a court of competent jurisdiction showing that
9 the firefighter engaged in conduct or activities outside of
10 employment that posed a significant risk of contracting or
11 developing a described condition.

12 D. If a firefighter is diagnosed with a heart
13 injury or stroke suffered within twenty-four hours of
14 fighting a fire, while responding to an alarm, while
15 returning from an alarm call, while engaging in supervised
16 physical training or while responding to or performing in a
17 non-fire emergency, the heart injury or stroke is presumed to
18 be proximately caused by employment as a firefighter. The
19 presumption created in this subsection shall not be made if
20 the firefighter's employer does not have a current physical
21 training program and the firefighter does not have a current
22 medical screening examination or review pursuant to the
23 Occupational Health and Safety Act and rules promulgated
24 pursuant to that act allowing participation in that program.

25 E. When any presumptions created in this section

1 do not apply, it shall not preclude a firefighter from
2 demonstrating a causal connection between employment and
3 condition or injury by a preponderance of evidence in a court
4 of competent jurisdiction.

5 F. Medical treatment based on the presumptions
6 created in this section shall be provided by an employer as
7 for a job-related condition or injury unless and until a court
8 of competent jurisdiction determines that the presumption does
9 not apply. If the court determines that the presumption does
10 not apply or that the condition or injury is not job related,
11 the employer's workers' compensation insurance provider shall
12 be reimbursed for health care costs by the medical or health
13 insurance plan or benefit provided for the firefighter by the
14 employer."

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