

Effective 5/12/2015

34A-3-113 Presumption of workers' compensation benefits for firefighters.

(1) As used in this section:

(a)

(i) "Firefighter" means a member, including a volunteer member, as described in Subsection 67-20-2(5)(b)(ii), or a member paid on call, of a fire department or other organization that provides fire suppression and other fire-related service who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(b) "Presumptive cancer" means one or more of the following cancers:

(i) pharynx;

(ii) esophagus;

(iii) lung; and

(iv) mesothelioma.

(2) If a firefighter who contracts a presumptive cancer meets the requirements of Subsection (3), there is a rebuttable presumption that:

(a) the presumptive cancer was contracted arising out of and in the course of employment; and

(b) the presumptive cancer was not contracted by a willful act of the firefighter.

(3) To be entitled to the rebuttable presumption described in Subsection (2):

(a) during the time of employment as a firefighter, the firefighter undergoes annual physical examinations;

(b) the firefighter shall have been employed as a firefighter for eight years or more and regularly responded to firefighting or emergency calls within the eight-year period; and

(c) if a firefighter has used tobacco, the firefighter provides documentation from a physician that indicates that the firefighter has not used tobacco for the eight years preceding reporting the presumptive cancer to the employer or division.

(4) A presumption established under this section may be rebutted by a preponderance of the evidence.

(5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by more than one employer and qualifies for the presumption under Subsection (2), and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to risk of the presumptive cancer are liable under this chapter pursuant to Section 34A-3-105.

(6) A cause of action subject to the presumption under this section is considered to arise on the date after May 12, 2015, that the employee:

(a) suffers disability from the occupational disease;

(b) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment; and

(c) files a claim as provided in Section 34A-3-108.

Enacted by Chapter 433, 2015 General Session