

1                                   **WORKERS' COMPENSATION COVERAGE OF**  
2                                   **FIREFIGHTERS AND DRUG TASK FORCE**  
3                                   **OFFICERS**

4                                   2006 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Joseph G. Murray**

7                                   Senate Sponsor: \_\_\_\_\_

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9                                   **LONG TITLE**

10                                  **General Description:**

11                                  This bill modifies the Utah Labor Code to address presumptions related to firefighters  
12                                  and drug task force officers.

13                                  **Highlighted Provisions:**

14                                  This bill:

15                                  ▶ provides for a presumption for purposes of workers' compensation that certain  
16                                  occupational diseases are employment related for firefighters and drug task force  
17                                  officers.

18                                  **Monies Appropriated in this Bill:**

19                                  None

20                                  **Other Special Clauses:**

21                                  None

22                                  **Utah Code Sections Affected:**

23                                  ENACTS:

24                                  **34A-3-113**, Utah Code Annotated 1953

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26                                  *Be it enacted by the Legislature of the state of Utah:*

27                                  Section 1. Section **34A-3-113** is enacted to read:



28 **34A-3-113. Presumption for firefighters and drug task force officers.**

29 (1) As used in this section:

30 (a) "Drug task force officer" means a law enforcement officer who is assigned by the  
31 law enforcement officer's city, county, or state department head, to participate in a  
32 multijurisdictional investigative unit targeting drugs, including the production of  
33 methamphetamine.

34 (b) (i) "Firefighter" means an individual that:

35 (A) is a member of a fire department or other organization that:

36 (I) provides fire suppression and other fire-related services; and

37 (II) is an agency of a political subdivision of the state; and

38 (B) (I) is in a capacity that includes responsibility for the extinguishment of fire; or

39 (II) is emergency medical service personnel, as defined in Section 26-8a-102, who is a  
40 member of a fire department or other organization described in Subsection (1)(b)(i) when  
41 providing services as an emergency medical service personnel.

42 (ii) "Firefighter" includes a volunteer member of a fire department or other  
43 organization described in Subsection (1)(b)(i).

44 (c) "Law enforcement officer" is as defined in Section 53-13-103.

45 (d) "Line-of-duty employment" means an activity of a firefighter or drug task force  
46 officer for which the firefighter or drug task force officer is obligated or authorized to perform  
47 as a firefighter or drug task force officer by:

48 (i) rule;

49 (ii) condition of employment or service; or

50 (iii) statute.

51 (e) "Presumptive occupational disease" means one of the following cancers:

52 (i) brain cancer;

53 (ii) cancer of the digestive system;

54 (iii) leukemia;

55 (iv) lymphoma, except for Hodgkin's disease;

56 (v) melanoma;

57 (vi) multiple myeloma; or

58 (vii) respiratory cancer.

59           (2) Notwithstanding the other provisions of this chapter or Chapter 2, Workers'  
60 Compensation Act, for a claim for compensation under this chapter that meets the requirements  
61 of Subsection (3), there is a rebuttable presumption that a presumptive occupational disease:

62           (a) arose out of and in the course of line-of-duty employment; and  
63           (b) is medically caused or aggravated by the line-of-duty employment described in  
64 Subsection (2)(a).

65           (3) The presumption described in Subsection (2) is created if:

66           (a) the claim for compensation under this chapter is filed within the time periods  
67 provided in Sections 34A-3-108 and 34A-3-109;

68           (b) the firefighter or drug task force officer for which the claim is filed is employed in  
69 the line-of-duty employment:

70           (i) for at least 36 months; and

71           (ii) (A) on the day on which the claim for compensation is filed; or

72           (B) within no more than three years before the day on which the claim for  
73 compensation is filed;

74           (c) (i) as a condition of being employed in line-of-duty employment, the firefighter or  
75 drug task force officer passed a physical examination before the day on which the firefighter or  
76 drug task force officer made a claim under this chapter for a presumptive occupational disease;  
77 and

78           (ii) the examination described in Subsection (3)(c)(i) did not indicate evidence of a  
79 presumptive occupational disease; and

80           (d) the claim for compensation under this chapter is for a presumptive occupational  
81 disease.

82           (4) If the conditions of Subsection (3) are met, a firefighter or drug task force officer  
83 may rely on the presumption described in Subsection (2) to meet a burden of proof to establish  
84 entitlement to compensation under this chapter and Chapter 2, Workers' Compensation Act.

85           (5) The presumption described in Subsection (2) may be rebutted if the employer or the  
86 employer's insurer establishes by a preponderance of the evidence that the presumptive  
87 occupational disease:

88           (a) did not arise out of and in the course of the line-of-duty employment; and

89           (b) was not medically caused or aggravated by the line-of-duty employment described

90 in Subsection (5)(a).

91 (6) Notwithstanding the other provisions of this section, an employer is not liable for a  
92 presumptive occupational disease if after a firefighter or drug task force officer is no longer  
93 employed in the line-of-duty employment, the firefighter or drug task force officer is  
94 injuriously exposed to the hazards of the presumptive occupational disease as provided in  
95 Section 34A-3-105.

96 (7) Notwithstanding the other provisions of this section, Chapter 2, Part 9,  
97 Presumptions for Emergency Medical Services Providers, governs whether there is or is not a  
98 presumption that a disease, as defined in Section 78-29-101, is compensable under this chapter  
99 or Chapter 2, Workers' Compensation Act.

100 (8) This section may not be construed as preventing a firefighter or drug task force  
101 officer from receiving workers' compensation benefits under this chapter or Chapter 2,  
102 Workers' Compensation Act, because the firefighter or drug task force officer fails to meet the  
103 requirements under this section to establish the rebuttable presumption described in Subsection  
104 (2).

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**Legislative Review Note**  
**as of 10-3-05 10:27 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
**as of 12-15-05 11:37 AM**

The Retirement and Independent Entities Interim Committee recommended this bill.

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**Fiscal Note****Bill Number HB0009****Workers' Compensation Coverage of Firefighters and Drug Task Force  
Officers***18-Jan-06**12:05 PM*

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**State Impact**

Employers of firefighters and drug task force officers will pay more in workers' compensation premiums. The amount of increase will depend on the number and nature of claims submitted and covered as a result of this bill.

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**Individual and Business Impact**

Qualifying firefighters and drug task force officers will receive increased benefits.

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**Office of the Legislative Fiscal Analyst**