

1 HB386
2 183310-1
3 By Representative Scott
4 RFD: Judiciary
5 First Read: 09-MAR-17

2
3
4
5
6
7
8 SYNOPSIS: This bill, for purposes of the workers'
9 compensation law, would revise the definition of
10 occupational disease.

11 This bill would provide definitions for the
12 terms "cancer of a firefighter" and "occupational
13 post traumatic stress disorder."

14 This bill would establish a rebuttable
15 presumption relating to the workers' compensation
16 benefits of a firefighter who is diagnosed with
17 cancer and a rebuttable presumption relating to the
18 workers' compensation benefits of a firefighter who
19 is diagnosed with post traumatic stress disorder.
20

21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To amend Sections 25-5-110 and 25-5-120, Code of
26 Alabama 1975, relating to workers' compensation; to further
27 provide definitions; to establish a rebuttable presumption

1 relating to the workers' compensation benefits of a
2 firefighter who is diagnosed with cancer; and to establish a
3 rebuttable presumption relating to the workers' compensation
4 benefits of a firefighter who is diagnosed with post traumatic
5 stress disorder.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 25-5-110 and 25-5-120, Code of
8 Alabama 1975, are amended to read as follows:

9 "§25-5-110.

10 "For the purposes of this article, the following
11 terms shall have the meanings respectively ascribed to them by
12 this section:

13 "(1) OCCUPATIONAL DISEASE. a. A disease arising out
14 of and in the course of employment, ~~including occupational~~
15 ~~pneumoconiosis and occupational exposure to radiation as~~
16 ~~defined in subdivisions (2) and (3), respectively, of this~~
17 ~~section,~~ which is due to hazards in excess of those ordinarily
18 incident to employment in general and is peculiar to the
19 occupation in which the employee is engaged but without regard
20 to negligence or fault, if any, of the employer. A disease,
21 including, but not limited to, loss of hearing due to noise,
22 shall be deemed an occupational disease only if caused by a
23 hazard recognized as peculiar to a particular trade, process,
24 occupation, or employment as a direct result of exposure, over
25 a period of time, to the normal working conditions of the
26 trade, process, occupation, or employment.

1 "b. An occupational disease shall include all of the
2 following:

3 "1. Occupational pneumoconiosis.

4 "2. Occupational exposure to radiation.

5 "3. Cancer of a firefighter.

6 "4. Occupational post traumatic stress disorder of a
7 firefighter.

8 "(2) OCCUPATIONAL PNEUMOCONIOSIS. A disease of the
9 lungs caused by inhalation of minute particles of dust over a
10 period of time, which dust is due to causes and conditions
11 arising out of and in the course of the employment, without
12 regard to whether the causes or conditions are inherent in the
13 employment or can be eliminated or reduced by due care on the
14 part of the employer. The term "occupational pneumoconiosis"
15 shall include, but without limitation, such diseases as
16 silicosis, siderosis, anthracosis, anthrasilicosis,
17 anthracosilicosis, anthraco-tuberculosis, tuberculosilicosis,
18 silico-tuberculosis, aluminosis, and other diseases of the
19 lungs resulting from causes enumerated in this section.

20 "(3) OCCUPATIONAL EXPOSURE TO RADIATION. Gradual
21 exposure to radiation over a period of time from the use of or
22 direct contact with radium, radioactive substances, roentgen
23 rays (X rays), or ionizing radiation, arising out of and in
24 the course of the employment and resulting from the nature of
25 the employment in which the employee is engaged, without
26 regard to whether the exposure is inherent in the employment

1 or can be eliminated or reduced by due care on the part of the
2 employer.

3 "(4) NATURE OF EMPLOYMENT. With respect to
4 subdivisions (2) and (3) above, this term shall mean that, as
5 to the industry in which the employee is engaged, there is
6 attached a particular hazard of the exposure that
7 distinguishes it from the usual run of occupations and is in
8 excess of the hazards of the exposure attending employment in
9 general.

10 "(5) CONTRACTION OF AN OCCUPATIONAL DISEASE. This
11 term shall include any aggravation of the disease without
12 regard to the employment in which the disease was contracted.

13 "(6) CANCER OF A FIREFIGHTER. Cancer which manifests
14 itself in a paid firefighter during the period in which the
15 firefighter is in service of the employer; provided, the
16 firefighter demonstrates that he or she was exposed, while in
17 the employ of the employer, to a known carcinogen which is
18 reasonably linked to the disabling cancer. The cancer is
19 presumed to arise in the course of the firefighter's
20 employment unless the employer demonstrates by a preponderance
21 of the evidence that the cancer was caused by some other
22 means.

23 "(7) OCCUPATIONAL POST TRAUMATIC STRESS DISORDER OF
24 A FIREFIGHTER. Post traumatic stress disorder diagnosed in a
25 paid firefighter which is reasonably linked to the
26 firefighter's service as a firefighter. The post traumatic
27 stress disorder is presumed to arise in the course of the

1 firefighter's employment unless the employer demonstrates by a
2 preponderance of the evidence that the disorder was caused by
3 some other means.

4 "§25-5-120.

5 "(a) There shall not be a presumption that
6 disablement or death from any cause or infirmity is the result
7 of an occupational disease, nor that an occupational disease
8 will result in disablement or death, and any person claiming
9 compensation or other benefits under this article shall have
10 the burden of establishing that he or she is entitled to the
11 benefits.

12 "(b) (1) Notwithstanding the provisions of subsection
13 (a), a paid firefighter who is diagnosed with cancer shall be
14 presumed to have contracted the cancer as a direct result of
15 his or her firefighting duties if the firefighter demonstrates
16 all of the following:

17 "a. The firefighter, upon entering the service,
18 passed a physical examination that did not show evidence of
19 cancer.

20 "b. The firefighter demonstrated that he or she has
21 been exposed to a known carcinogen that causes cancer.

22 "(2) To overcome the presumption in subdivision (1)
23 and to disqualify the firefighter from benefits under this
24 article, the employer must prove by a preponderance of the
25 evidence that the cancer was caused by some means other than
26 the occupation.

1 "(c) Notwithstanding the provisions of subsection
2 (a), a paid firefighter who is diagnosed with post traumatic
3 stress disorder that is reasonably linked to the firefighter's
4 services as a firefighter is presumed to have contracted the
5 disorder in the course of the firefighter's employment unless
6 the employer demonstrates by a preponderance of the evidence
7 that the disorder was caused by some other means."

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.