

1 **WORKERS' COMPENSATION COVERAGE FOR**
2 **FIREFIGHTERS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karen Mayne**

6 House Sponsor: Paul Ray

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Utah Occupational Disease Act to address coverage for
11 firefighters.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ creates a rebuttable presumption of coverage for certain presumptive cancers under
16 certain circumstances;
- 17 ▶ addresses when there are multiple employers; and
- 18 ▶ clarifies when a claim arises.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 ENACTS:

25 **34A-3-113**, Utah Code Annotated 1953

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

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

29 **34A-3-113. Presumption of workers' compensation benefits for firefighters.**

30 (1) As used in this section:

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

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

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

38 (i) pharynx;

39 (ii) esophagus;

40 (iii) lung; and

41 (iv) mesothelioma.

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

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

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

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

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

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

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

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

57 (5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by

58 more than one employer and qualifies for the presumption under Subsection (2), and that
59 presumption has not been rebutted, the employer and insurer at the time of the last substantial
60 exposure to risk of the presumptive cancer are liable under this chapter pursuant to Section
61 [34A-3-105](#).

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

64 (a) suffers disability from the occupational disease;

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

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