



HOUSE BILL 666: WC/Firefighters'/Presumptive Cancer

2013-2014 General Assembly

Committee:	House Pensions and Retirement	Date:	April 27, 2015
Introduced by:	Reps. Saine, Hardister, Boles, Faircloth	Prepared by:	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: *House Bill 666 amends the Workers' Compensation Act to provide that any condition or impairment of health caused by any of the following types of cancers will be deemed occupational diseases of firefighters: Esophageal, Intestinal, Rectal, Testicular, Brain, Non-Hodgkin's Lymphoma, Multiple Myeloma, Mesothelioma, Oral cavity.*

CURRENT LAW:

G.S. 97-52 provides that disablement or death of an employee resulting from an occupational disease described in G.S. 97-53 shall be treated as the happening of an injury by accident within the meaning of the North Carolina Workers' Compensation Act and the procedure and practice and compensation and other benefits provided by said act shall apply in all such cases except as otherwise provided.

G.S. 97-53 lists diseases and conditions that may be deemed occupational diseases for purposes of the Workers' Compensation Act. The diseases and conditions currently listed are not specifically tied to a particular trade, occupation or employment. The list of occupational diseases (G.S. 97-53(13)) includes any disease (other than hearing loss covered in another subdivision) which is proven to be due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation or employment but excluding all ordinary diseases of life to which the general public is equally exposed outside of the employment.

Under current law a firefighter would have to prove that he or she has a condition that arose due to causes and conditions which are characteristic of and peculiar to employment as a firefighter and that their condition is not an ordinary disease of life to which the general public is equally exposed outside of the employment.

BILL ANALYSIS:

House Bill 666 amends the Workers Compensation Act to include provisions specifically related to occupational diseases of firefighters.

Section 1 of the bill amends G.S. 97-53 pertaining to diseases and conditions deemed to be occupational diseases under the Workers Compensation Act. The bill places the current law contained in G.S. 97-53 in a new subsection (a) and titles it "Occupational Diseases Due to Exposure to Chemicals." Section 1 also adds a new subsection (b) specifying that any condition or impairment of a firefighter's health caused by any of the following types of cancers shall be deemed to be occupational diseases of firefighters within the meaning of the Article:

- Esophageal.
- Intestinal.
- Rectal.
- Testicular.
- Brain.

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- Non-Hodgkin's Lymphoma.
- Multiple Myeloma.
- Mesothelioma.
- Oral cavity.

Section 2 of the bill adds a new section to the Workers' Compensation Act pertaining to the compensability of firefighter occupational diseases. The new section includes the following elements:

- **Findings** - Subsection (a) provides that the General Assembly finds firefighting is a hazardous occupation that routinely exposes firefighters to hazardous agents such as carbon monoxide, carcinogens, particulate matter, and a broad array of other toxic chemicals, and that firefighters as a class face an increased risk of certain cancers.
- **Intent** - Subsection (b) provides language to recognize that firefighting is a hazardous occupation essential to protecting the personal safety of the citizens of the State.
- **Definitions** - Subsection (c) provides a definitions section containing definitions of the following: Disability and Firefighter. Disability is defined as incapacity due to an occupational disease described in G.S. 97-53(b) to earn the wages that the firefighter was receiving at the time of manifestation of the occupational disease. A firefighter is defined as a paid, partially paid, or volunteer member of a fire department of a unit of local government.
- **Presumed Eligibility** - Subsection (d) provides that a firefighter will be presumed eligible for compensation for occupational disease if the following conditions are met:
 1. The firefighter was required to submit to a physical examination upon entering the service, the exam failed to reveal any evidence of a firefighter occupational disease, and the firefighter has completed at least 5 years of service for the unit of local government.
 2. The firefighter was not required to submit to a physical examination upon entering the service and, at the time of disability by an occupational disease, the firefighter has completed at least 5 years of continuous service immediately preceding January 1, 2015.
- **Burden of Rebuttal** - Subsection (e) provides that in the case of a firefighter occupational disease described in G.S. 97-53(b), the unit of local government has the burden of proving by a preponderance of competent evidence that the condition was caused by some means other than the firefighter's occupation in order to disqualify the firefighter from receiving compensation for occupational disease.
- **Applicability** - Subsection (f) provides that the section applies only to firefighters of local government.

EFFECTIVE DATE: House Bill 666 would become effective when it becomes law and applies to workers' compensation benefit claims filed on or after that date.