



# HOUSE BILL 520: Firefighters Fighting Cancer Act.

2019-2020 General Assembly

<b>Committee:</b>	House Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 29, 2019
<b>Introduced by:</b>	Reps. Lewis, Bell, Saine, Murphy	<b>Prepared by:</b>	Theresa Matula
<b>Analysis of:</b>	First Edition		Committee Staff

**OVERVIEW:** House Bill 520 would create a presumption that the following cancers are occupational diseases for firefighters employed by units of local government that are covered by the Workers' Compensation Act: Esophageal, Intestinal, Rectal, Testicular, Brain, Non-Hodgkin's Lymphoma, Multiple Myeloma, Mesothelioma, Oral Cavity.

**CURRENT LAW:** For purposes of death benefits, G.S. 143-166.2 provides that when a firefighter dies as a direct and proximate result of any of the following cancers that are occupationally related to firefighting, that firefighter is presumed to have been killed in the line of duty: mesothelioma, testicular cancer, intestinal cancer, esophageal cancer.

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 which arose due to employment as a firefighter and that their condition is not an ordinary disease of life to which the general public is equally exposed.

**BILL ANALYSIS:** HB 520 would amend 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 health caused by any of the following types of cancers are deemed occupational diseases of firefighters within the meaning of the Article:

1. Esophageal.
2. Intestinal.

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3. Rectal.
4. Testicular.
5. Brain.
6. Non-Hodgkin's Lymphoma.
7. Multiple Myeloma.
8. Mesothelioma.
9. Oral cavity.

**Section 2** of the bill adds a new section (G.S. 97-53.1) 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 recognizing that firefighting is a hazardous occupation essential to protecting the personal safety of the citizens of the State and that it is the intent of the General Assembly to presume that the diseases in G.S. 97-53(b) are occupationally related to firefighting for the purpose of determining eligibility for compensation under the Workers' Compensation Act.
- **Definitions** - Subsection (c) provides definitions of: 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 of the unit of local government, 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, 2017, as a firefighter for the unit of local government.
- **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 under the statutory section.
- **Applicability** - **Subsection (f) provides that the section applies only to firefighters of local government.**

**EFFECTIVE DATE:** HB 520 would become effective when it becomes law and applies to workers' compensation benefit claims filed on or after that date.