

MEMORANDUM

Date: 2/26/2020

Re: Responses to questions from 2/24/2020 Hearing on HB 84 in the House Labor and Commerce Committee

Prepared by Elise Sorum-Birk, Staff to Rep. Josephson

Does the statutory definition of peace officer include VPSOs, Village Police and Tribal Police who in many communities are the only first responders? (Rep. Hannan)

There are two definitions of “peace officer” used in Alaska Statute.

The definition used in HB 84 is that found in AS 11.81.900 (46) which reads, “ *‘peace officer’ means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders*”

There is another definition for peace officer outlined in AS 01.10.060 (7) which enumerates various specific professions, reading “ *‘peace officer’ means (A) an officer of the state troopers; (B) a member of the police force of a municipality; (C) a village public safety officer; (D) a regional public safety officer; (E) a United States marshal or deputy marshal; and (F) an officer whose duty it is to enforce and preserve the public peace;* ”

There is a legal argument that the definition found in AS 11.81.900 (46) is more broadly applicable than the AS 01.10.060 (7) (outlined in 2016 Alaska Court of Appeals Decision, *Sapp v. State of Alaska*). It is likely that in addition to the categories of peace officer listed in AS 01.10.060 (7), probation officers would be included under AS 11.81.900 (46).

Since 2008, what has the state required to verify that exposure to carcinogens happened? How is the threshold determined, is there an automatic assumption made or does there need to be an analysis with substantial proof at every emergency before each disability claim is processed? (Rep. Hannan)

A “known carcinogen” in this statute is defined either by [the International Agency for Research on Cancer](#) or [the National Toxicology Program](#).

To raise a presumption, it takes minimal evidence on the part of the employee. This can be as simple as the employee testifying that something plausible happened to them. The burden is on the employer to produce sufficient evidence to rebut a claim of exposure. If the employer produces evidence, then the burden shifts to the employee to rebut this evidence.

So far there has been no litigation related to this topic in Alaska since it would be difficult to rebut a claim of a firefighter to carcinogen exposure due to the nature of their profession.

Since the law passed in 2008, how many disability claims has Alaska been able to process that result in public employees or volunteer firefighters receiving workers’ compensation? Has it been so narrowly constrained as to limit the number of individuals compensated under Alaska’s presumptive illness law? (Rep. Hannan)

Though exact figures have not been compiled as to the total number of presumptive illness cases in Alaska since 2008, the Division of Workers’ Compensation estimates that in recent years there have been an average of 1 cancer claim and 4 respiratory health claims filed by firefighters each year. These claims are a very small portion of the approximated 260 claims made annually.

Four cases relating to firefighters and a cancer presumption have gone as far as the Alaska Workers’ Compensation Board or further, each made by Anchorage Fire Department Employees. These were brought by John Adamson, Mark Jones, Terry Mahlberg and Andrew Mullen. In each of these cases the employee was compensated for their illness and Alaska’s presumptive illness law was cited and followed.

Relating to breast cancer among women firefighters and studies conducted in San Francisco-

Was age of motherhood (potentially an older age of motherhood, after 30, that could increase risk of breast cancer) considered as a factor among test subjects? (Rep. Rasmussen)

What is the current state of the research on this cohort of female firefighters, have there been any additional findings? (Rep. Spohnholz)

The ongoing Women Firefighters Biomonitoring Collaborative Study was undertaken due to high observed rates of cancer among female firefighters in 2012 in San Francisco specifically.

This study has evolved to focus on pinpointing chemical exposures and conducting biological monitoring of firefighters and individuals of other professions. They have done and continue to do a variety of research relating to occupational exposures for these women and each study has a slightly different cohort of individuals involved.

Their most recent work compares exposure to perfluoroalkyl substances between a cohort of female firefighters to a cohort of female office workers to measure differences between the groups. This study found that levels of three PFAS chemicals were significantly higher in the blood of firefighters than the blood of office worker.

In this specific study, subjects were all over 18 years old, full-time employees, and non-smokers. It appears that neither maternity status nor age at motherhood were considered as factors for selection of subjects in this specific study. The study notes that both groups were demographically similar in age and racial make-up.

Researcher at the Biomonitoring Collaborative have also recently published a paper relating to biological sample archive and general suspect screen screening technique that could be used to map and predict the likelihood of cancer.

Other studies that are underway as part of the Biomonitoring Collaborative include analysis of chemical levels in blood and urine samples from female firefighters within 24-48 hours of attending a fire event and a study of 148 firefighters deployed to the Tubbs fires in 2017 a few weeks following their exposure.