

CS FOR SENATE BILL NO. 117(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/6/08

Referred: Health, Education and Social Services, Finance

Sponsor(s): SENATORS FRENCH, McGuire, Davis, Wielechowski, Elton

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the presumption of coverage for a workers' compensation claim for**
2 **disability as a result of certain diseases for certain occupations."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 23.30 is amended by adding a new section to read:

5 **Sec. 23.30.121. Presumption of coverage for disability from diseases for**
6 **certain occupations.** (a) There is a presumption that a claim for compensation for
7 disability as a result of the diseases described in (b) and (c) of this section for the
8 occupations listed under (b) and (c) of this section is within the provisions of this
9 chapter. This presumption of coverage may be rebutted by a preponderance of the
10 evidence. The evidence may include the use of tobacco products, physical fitness and
11 weight, lifestyle, hereditary factors, and exposure from other employment or
12 nonemployment activities.

13 (b) For a fire fighter covered under AS 23.30.243,

14 (1) there is a presumption that a claim for compensation for disability

1 as a result of the following diseases is within the provisions of this chapter:

2 (A) respiratory disease;

3 (B) cardiovascular events that are experienced within 72 hours
4 after exposure to smoke, fumes, or toxic substances; and

5 (C) the following cancers:

6 (i) primary brain cancer;

7 (ii) malignant melanoma;

8 (iii) leukemia;

9 (iv) non-Hodgkin's lymphoma;

10 (v) bladder cancer;

11 (vi) ureter cancer;

12 (vii) kidney cancer; and

13 (viii) prostate cancer;

14 (2) notwithstanding AS 23.30.100(a), following termination of service,
15 the presumption established in (1) of this subsection extends to the fire fighter for a
16 period of three calendar months for each year of requisite service but may not extend
17 more than 60 calendar months following the last date of employment;

18 (3) the presumption established in (1) of this subsection applies only to
19 an active or former fire fighter who has a disease described in (1) of this subsection
20 that develops or manifests itself after the fire fighter has served at least seven years
21 and who

22 (A) was given a qualifying medical examination upon
23 becoming a fire fighter or during employment as a fire fighter that did not
24 show evidence of the disease; and

25 (B) with regard to diseases described in (1)(C) of this
26 subsection, demonstrates that, while in the course of employment as a fire
27 fighter, the fire fighter was exposed to a known carcinogen, as defined by the
28 International Agency for Research on Cancer or the National Toxicology
29 Program, and the carcinogen is associated with a disabling cancer.

30 (c) The presumption in this subsection applies to fire fighters covered under
31 AS 23.30.243, peace officers, and emergency medical and rescue personnel. In this

1 subsection, "emergency medical and rescue personnel" means a trauma technician,
 2 emergency medical technician, rescuer, or mobile intensive care paramedic who is a
 3 paid employee of a first responder service, a rescue service, an ambulance service, or a
 4 fire department that provides emergency medical or rescue services as part of its
 5 duties; under this subsection,

6 (1) there is a presumption that a claim for compensation for disability
 7 as a result of the following contagious diseases is within the provisions of this chapter:

8 (A) human immunodeficiency virus;

9 (B) acquired immunodeficiency syndrome;

10 (C) all strains of hepatitis;

11 (D) meningococcal meningitis;

12 (E) mycobacterium tuberculosis; and

13 (F) any uncommon infectious disease the contraction of which
 14 the United States Secretary of Labor determines to be related to the hazards to
 15 which an employee in fire protection activities may be subject;

16 (2) the presumption established in (1) of this subsection applies only to
 17 fire fighters covered under AS 23.30.243, peace officers, and emergency medical and
 18 rescue personnel who were given a qualifying medical examination upon becoming or
 19 during service as a fire fighter, peace officer, or provider of emergency medical or
 20 rescue services who did not show evidence of the disease.

21 (d) The provisions of (b)(1)(A) and (B) of this section do not apply to a fire
 22 fighter who develops a cardiovascular or lung condition and who has a history of
 23 tobacco product use as established under (f)(2) of this section.

24 (e) The provisions of (c)(2) of this section may not be interpreted to require a
 25 municipality or other employer of fire fighters covered under AS 23.30.243, peace
 26 officers, or emergency medical and rescue personnel, including a municipality or other
 27 organization that uses volunteers, to provide a qualifying medical examination. If an
 28 employer or volunteer organization does not provide a qualifying medical
 29 examination, an employee may independently obtain a qualifying medical
 30 examination at the employee's expense.

31 (f) The department shall, by regulation, define

1 (1) for purposes of (b)(1) - (3) and (c)(1) - (2) of this section, the type
2 and extent of the medical examination that is needed to eliminate evidence of the
3 disease in an active or former fire fighter; and

4 (2) for purposes of (d) of this section, the nature and quantity of a
5 person's tobacco product use; the standards adopted under this paragraph shall use or
6 be based on existing medical research.

7 (g) In this section, "fire fighter" has the meaning given in AS 09.65.295.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **APPLICABILITY.** The presumption of coverage established by this Act applies to
11 claims made on or after the effective date of this Act, even if the exposure leading to the
12 occupational disease occurred before the effective date of this Act.