

**HOUSE BILL NO. 538**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY REPRESENTATIVES ELLIS, Donley, Finkelstein**

**Introduced: 2/18/92**

**Referred: Health, Education & Social Services, Labor & Commerce, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to workers' compensation and occupational disability benefits for  
2 firefighters; and providing for an effective date."**

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

**4 \* Section 1. FINDINGS. The legislature finds that firefighters are**

**5 (1) required to work in conditions that result in exposure to smoke, fumes, and chemicals  
6 that are carcinogenic, poisonous, or toxic;**

**7 (2) continually exposed to a vast and expanding field of hazardous substances;**

**8 (3) constantly entering uncontrolled environments to save lives and reduce property  
9 damage;**

**10 (4) frequently not aware of the potential toxic and carcinogenic substances that they may  
11 be exposed to;**

**12 (5) often exposed simultaneously to multiple carcinogens, unlike other workers;**

**13 (6) experiencing a rise in occupational heart disease, respiratory problems, and cancer  
14 related to the rapid proliferation of thousands of toxic substances in our everyday environment;**

1 (7) being exposed to agents that can result in the development of heart disease,  
2 respiratory problems, or cancer very slowly over a period of five to 40 years;

3 (8) experiencing heart disease, respiratory problems, and cancer that arise out of and in  
4 the course of employment.

5 \* Sec. 2. AS 23.30.120 is amended by adding a new subsection to read:

6 (d) In a proceeding under this chapter, there is a rebuttable presumption that heart  
7 disease, respiratory disease, or cancer suffered by a firefighter is an injury that arises out of and  
8 in the course of employment if

9 (1) the heart disease, respiratory disease, or cancer occurs during employment as  
10 a firefighter;

11 (2) the firefighter has been continuously employed as a firefighter for five or more  
12 years immediately preceding the onset of the disease; or

13 (3) the disease occurs within 20 years immediately following the termination of  
14 employment as a firefighter, and the firefighter was employed for five years or longer as a  
15 firefighter.

16 \* Sec. 3. AS 39.35.410(f) is amended to read:

17 (f) Except as provided in (i) of this section, an [AN] employee is not entitled to an  
18 occupational disability benefit unless the employee files an application for it with the  
19 administrator within six months after the date of the accident, if disability is attributable to an  
20 accident, within six months after the date the disability begins if the disability is caused by an  
21 occupational disease, or within 30 days of the date of terminating employment, whichever is later.  
22 If the disability is attributable to an accident, the employee shall file a notice of the accident with  
23 the administrator within 30 days following the date it occurred. This 30-day filing period is  
24 suspended for the time the employee's condition prevents filing. If the employee is unable to  
25 meet a filing requirement of this subsection, it may be waived by the Public Employees'  
26 Retirement Board for cause.

27 \* Sec. 4. AS 39.35.410 is amended by adding a new subsection to read:

28 (i) A firefighter who has been employed continuously for five or more years with a fire  
29 department in a position that requires that the firefighter regularly respond to calls of fire and  
30 who is unable to perform duties in the department because of heart or respiratory disease or job-  
31 related, disabling cancer is presumed to have a condition sustained or undergone while in the

1 performance and within the scope of the employee's duties. An individual who was employed  
2 continuously as a firefighter as described in this subsection for at least five years is entitled to  
3 the presumption set out in this subsection for 20 years after the last date on which the individual  
4 was employed as a firefighter. If the individual subsequently becomes totally and apparently  
5 permanently disabled through heart or respiratory disease or job-related cancer, the individual is  
6 entitled to an occupational disability benefit under this section even though the individual is not  
7 then an active employee in the system and the termination of employment as a firefighter was  
8 not caused by the disability. The amount of the benefit shall be calculated based on the gross  
9 monthly compensation the individual received when the individual terminated employment as a  
10 firefighter. If an individual who begins employment as a firefighter with a fire department after  
11 the effective date of this subsection is examined by a physician before being hired and the  
12 examination discloses the existence of heart or respiratory disease or of a job-related cancer, the  
13 firefighter is not entitled to the presumption created by this subsection unless a subsequent  
14 medical determination is made that the firefighter no longer has the heart or respiratory disease  
15 or the cancer. In this subsection, "job-related cancer" means cancer of a type caused by exposure  
16 to heat, radiation, or a known carcinogen, as defined by the International Agency for Research  
17 on Cancer, and the carcinogen is reasonably linked to the disabling cancer.

18 \* Sec. 5. This Act takes effect July 1, 1992.