

FIREFIGHTERS PRESUMPTIVE CANCER LAWS

By

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Cancer all too often has been a consequence of firefighters' exposure to the hazardous and dangerous chemicals encountered in their jobs. But having that cancer recognized as being job related and being compensated for it has not been easy.

That may change, as the State of Ohio has enacted a cancer presumption law, providing that a firefighter who is disabled as a result of cancer under certain circumstances is presumed, for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund, to have incurred the cancer while performing his/her official duties as a firefighter. Substitute Senate Bill Number 27, passed by the 131st Ohio General Assembly, and titled the "Michael Louis Palumbo, Jr. Act," amends Ohio Revised Code Sections 742.38, 4123.57, and 4123.68 and enacts Section 4123.86 of the Revised Code. Under the new law, a firefighter who has been assigned to at least six years of hazardous duty as a member of a fire department, and is disabled as a result of cancer, is presumed to have incurred the cancer while performing the member's official duties if the firefighter was exposed to an agent classified by the International Agency for Research on Cancer as a Group 1 or 2A carcinogen.

The presumption is not complete, and may be rebutted, by evidence (1) that the firefighter incurred the cancer before becoming a firefighter, (2) that the firefighter's exposure, outside the scope of his/her official duties, to cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer, was probably a significant factor in the cause or progression of the cancer, (3) that the firefighter was not exposed to a Group 1 or 2A carcinogen, (4) the firefighter is seventy years of age or older, or (5) if it has been more than twenty years since the firefighter was last assigned to hazardous duty as a member of a fire department.

The new law became effective April 6, 2017, and only applies to applications for pension disability benefits that are filed on or after the effective date or workers compensation claims arising on or after the effective date.

The Ohio Bureau of Workers Compensation has indicated that for a firefighter to be eligible to the cancer presumption, his or her cancer must have been first diagnosed, first treated, or caused him or her to quit work on or after April 6, 2017. OBWC will not apply the presumption to claims for firefighters who died of cancer prior to April 6, 2017, or to claims for firefighters who were diagnosed, received treatment, AND who quit work due to cancer prior to April 6, 2017.