
A BILL FOR AN ACT

RELATING TO MEDICAL COVERAGE FOR FIREFIGHTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that firefighters can be
2 exposed to contaminants from fires that are known or suspected
3 to cause cancer. Firefighters are exposed to multiple
4 carcinogens and toxicants through incident exposure as
5 residential and vehicle fires release highly concentrated
6 toxicants from plastics and synthetics. In October 2013,
7 researchers from the National Institute for Occupational Safety
8 and Health published a study that found that firefighters have a
9 higher risk than the general population of being diagnosed with
10 cancer. The study looked at cancers and cancer deaths among
11 30,000 firefighters from Chicago, Philadelphia, and San
12 Francisco fire departments and found that cancers of the
13 respiratory, digestive, and urinary systems accounted for most
14 of the higher rates of cancer in the study population,
15 suggesting that firefighters are more likely to develop these
16 types of cancers. Additionally, a study in 2005 showed that
17 firefighters have significantly higher risks than the general



1 population of getting testicular cancer, multiple myeloma, non-
2 Hodgkin's lymphoma, skin cancer, brain and malignant melanoma,
3 rectal cancer, prostate cancer, buccal cavity and pharynx
4 cancer, stomach cancer, colon cancer, and leukemia. The Hawaii
5 Medical Service Association conducted a review of their members
6 who were Hawaii firefighters in collective bargaining unit (11)
7 over a defined period of time to estimate the incidence of
8 cancer among certain Hawaii Fire Fighters Association members
9 compared to a comparable population of Hawaii Medical Service
10 Association members. Although the study was limited to two
11 thousand male firefighters, the data showed that cancer rates
12 among members of the Hawaii Fire Fighters Association were much
13 higher than the general population for leukemia, buccal and
14 pharynx cancer, colon cancer, prostate cancer, and brain and
15 malignant melanoma.

16 The legislature further finds that H.C.R. No. 32, H.D. 1,
17 S.D. 1, regular session of 2016, requested the convening of a
18 task force to examine cancer in the firefighting profession.
19 The task force discussed, among other things, recommendations
20 for revisions to state workers' compensation laws that expedite
21 the delivery of workers' compensation medical and other benefits



1 for firefighters diagnosed with cancer, the percentages of
2 cancer diagnoses in Hawaii for the general population compared
3 to firefighters, and estimated costs to the State and counties
4 if there were to be an acceleration of workers' compensation
5 benefits for firefighters diagnosed with cancer. These
6 discussions led to the discovery that others states, such as
7 Arizona, California, Nevada, North Dakota, and Virginia, have
8 legislation that specifically mentions coverage of occupational
9 diseases for firefighters due to the higher risks of contaminant
10 exposure for firefighters.

11 The legislature notes that existing state law pertaining to
12 pensions and retirement systems explicitly recognizes the
13 inherent occupational hazard of exposure to smoke inhalation,
14 toxic gases, chemical fumes, and other toxic vapors and includes
15 a rebuttable presumption that firefighters who are permanently
16 incapacitated for duty or who die as a result of any condition
17 or impairment of health caused by any disease of the heart,
18 lungs, or respiratory system contracted the diseases while in
19 the performance of duty and receive certain benefits. Providing
20 sufficient medical coverage for firefighters recognizes the
21 inherent occupational hazards that come with the job, ensures



1 that firefighters receive proper medical treatment in a timely
2 manner, and lessens the impact of emotional toil, financial
3 burdens, and decreased quality of life on the families of
4 firefighters diagnosed with cancer.

5 The legislature also finds that fire departments are
6 expected to use the best equipment and management practices
7 available to identify and prevent firefighters from getting
8 cancer. The recommendations of the task force include
9 formulating best practices regarding annual exams and
10 recommended medical precautions for all fire departments, as
11 well as identifying gaps in wellness programs and examining
12 screening codes and claims for data trends. It is important to
13 ensure that adequate awareness exists among firefighters about
14 obtaining screenings early in order to detect conditions as soon
15 as possible.

16 The purpose of this Act is to fully effectuate the intent
17 of the current statutory presumption regarding hazardous duty
18 related diseases to ensure timely, appropriate medical care and
19 related benefits for individuals who are or have previous
20 service as a firefighter and develop cancer, by:



- 1 (1) Clarifying the presumption that the cancer arose out
2 of and in the course of employment as a firefighter,
3 regardless of whether the condition arises at any time
4 after the individual ends service as a firefighter;
- 5 (2) Providing access to medical coverage for cancer
6 treatment;
- 7 (3) Creating a process separate from the existing workers'
8 compensation system under chapter 386, Hawaii Revised
9 Statutes, to be used to access certain treatments and
10 benefits due to lost wages or death due to the cancer;
11 and
- 12 (4) Authorizing the awarding of certain retirement
13 benefits for disability or death due to the cancer if
14 certain conditions are met.

15 The intent of this Act is not to be a new benefit or to enhance
16 the benefits of firefighters, but to improve access for
17 firefighters to comprehensive medical coverage and other
18 benefits for hazardous duty related diseases that are presumed
19 to arise out of and in the course of employment. The
20 legislature notes that unlike most job-related injuries whose
21 treatment is compensable through the workers' compensation



1 system, cancer among firefighters and former firefighters is a
 2 disease that often does not develop at a definite, identifiable
 3 time or place and may not develop or be diagnosed until many
 4 years after employment as a firefighter. Nevertheless, like
 5 employees with other job-related injuries, individuals who
 6 develop cancer that arises out of and in the course of
 7 employment as a firefighter require treatment, including
 8 specialty treatments, from health care providers who typically
 9 are unwilling to accept patients for treatment reimbursable
 10 through a workers' compensation mechanism.

11 SECTION 2. The Hawaii Revised Statutes is amended by
 12 adding a new chapter to be appropriately designated and to read
 13 as follows:

14 **"CHAPTER**

15 **HAZARDOUS DUTY RELATED DISEASES TREATMENT INSURANCE BENEFITS**

16 § -1 **Definitions.** As used in this chapter:

17 "Director" means the director of labor and industrial
 18 relations.

19 "Disability" has the same meaning as in section 386-1.

20 "Firefighter" means all federal, state, and county
 21 employees whose principal duties are to prevent and fight fires.



1 "Hazardous duty related disease" means cancer.

2 "Known carcinogen" means any of the carcinogenic agents
3 recognized as such by the International Agency for Research on
4 Cancer or the department of health.

5 "Total disability" means disability to an extent that a
6 person has no reasonable prospect of finding regular employment
7 of any kind in the normal labor market.

8 § -2 **Health coverage.** (a) All individual and group
9 accident and health or sickness insurance policies issued in
10 this State, individual or group hospital or medical service plan
11 contracts, and nonprofit mutual benefit society, fraternal
12 benefit society, and health maintenance organization health plan
13 contracts shall include within their hospital and medical
14 coverage the benefits of hazardous duty related disease
15 treatment for firefighters, except that this section shall not
16 apply to insurance policies that are issued solely for single
17 diseases, or otherwise limited, specialized coverage.

18 (b) The policies and contracts set forth in subsection (a)
19 shall not be construed as reducing any obligation to provide
20 services to an individual under any publicly funded program, an



1 individualized family service plan, an individualized education
2 program, or an individualized service plan.

3 (c) Coverage under this section shall exclude coverage
4 for:

- 5 (1) Care that is custodial in nature;
- 6 (2) Services and supplies that are not clinically
7 appropriate;
- 8 (3) Services provided by family or household members;
- 9 (4) Treatments considered experimental; and
- 10 (5) Services provided outside of the State.

11 (d) Coverage under this section may be subject to
12 copayment, deductible, and coinsurance provisions of a policy
13 that are no less favorable than the copayment, deductible, and
14 coinsurance provisions for substantially all medical services
15 covered by the plan contract.

16 (e) The fees for medical care services and supplies for
17 firefighters who develop a hazardous duty related disease shall
18 be fully reimbursed based on the usual and customary charges
19 comparable to mutual benefit societies, health maintenance
20 organizations, and the Hawaii employer-union health benefits



1 trust fund for fees actually received by providers of health
2 care services and supplies.

3 **§ -3 Inapplicability of workers' compensation law.**

4 Chapter 386 shall not apply to firefighters who develop a
5 hazardous duty related disease and receive benefits pursuant to
6 this chapter.

7 **§ -4 Hazardous duty related disease benefits;**

8 **presumption; screenings.** (a) If a firefighter develops a
9 hazardous duty related disease, the condition shall be presumed
10 to arise out of and in the course of employment as a
11 firefighter. The benefits shall include a benefit equal to one
12 hundred per cent of the firefighter's average weekly wages,
13 disability indemnity, and death benefits paid for by the
14 employer.

15 (b) The presumption under subsection (a) shall be
16 rebuttable only by a finding of substantial evidence to the
17 contrary. The presumption shall be extended to a firefighter in
18 perpetuity following termination of service.

19 (c) The employer shall pay for annual appropriate
20 screenings and preventative screenings for hazardous duty
21 related diseases for the firefighter; provided that the



1 firefighter need not be diagnosed with a hazardous duty related
2 disease as a condition for payment by the employer of the costs
3 of receiving a preventative screening for a hazardous duty
4 related disease.

5 § -5 **Disability retirement.** (a) If a firefighter who
6 has completed one or more years of credited service develops a
7 hazardous duty related disease or dies due to a hazardous duty
8 related disease, the death or hazardous duty related disease
9 shall be presumed to arise out of and in the course of
10 employment; provided that the firefighter shall have taken a
11 physical examination upon becoming a firefighter, or subsequent
12 thereto, that failed to reveal any evidence of the condition or
13 impairment to health.

14 The benefits that are awarded upon manifestation of or
15 death from a hazardous duty related disease shall include full
16 hospital, surgical, medical treatment, disability indemnity, and
17 death benefits, as provided by this chapter and chapter 88. The
18 computation of benefits authorized pursuant to this section
19 shall not include the firefighter's credited vacation or sick
20 leave while undergoing medical treatment for the condition.



1 (b) Notwithstanding the existence of nonindustrial
2 predisposing or contributing factors, any firefighter
3 permanently incapacitated from the performance of duty as a
4 result of a hazardous duty related disease, shall receive a
5 service-connected disability retirement if the firefighter was
6 exposed to a known carcinogen due to the performance of job
7 duties.

8 (c) The presumption under subsection (a) shall be
9 rebuttable only by a finding of substantial evidence to the
10 contrary. This presumption shall be extended to a firefighter
11 in perpetuity following termination of service.

12 § -6 **Payment after death.** When a firefighter is
13 entitled to weekly income and indemnity benefits for permanent
14 total disability and dies from any cause other than a hazardous
15 duty related disease, payment of any unpaid balance of the
16 benefits to the extent that the employer is liable, shall be
17 made to the firefighter's dependents as follows:

18 (1) To a dependent widow, widower, or reciprocal
19 beneficiary, for the use of the widow, widower, or
20 reciprocal beneficiary, and the dependent children, if
21 any. The director may from time to time apportion the



1 compensation among the widow, widower, or reciprocal
2 beneficiary, and any dependent children;

3 (2) If there is no dependent widow, widower, or reciprocal
4 beneficiary, but one or more dependent children, then
5 to the child or children to be divided equally among
6 them if more than one;

7 (3) If there is no dependent widow, widower, reciprocal
8 beneficiary, or child, but there is a dependent
9 parent, then to the parent, or if both parents are
10 dependent, to both of them, to be divided equally
11 between them; or if there are no parents, but a
12 dependent grandparent, then to the grandparent, or if
13 more than one, then to all of them to be divided
14 equally among them; and

15 (4) If there is no dependent widow, widower, reciprocal
16 beneficiary, child, parent, or grandparent, but there
17 is a dependent grandchild, brother, or sister, then to
18 the dependent, or if more than one, then to all of
19 them to be divided equally among them.

20 § -7 **Total disability; permanent; temporary.** (a) Where
21 a hazardous duty related disease causes permanent total



1 disability, the employer shall pay the firefighter a weekly
2 benefit equal to one hundred per cent of the firefighter's
3 weekly wages.

4 The employer shall pay permanent total disability benefits
5 promptly as they accrue to the firefighter entitled to the
6 benefits without waiting for a decision from the director. The
7 first payment of benefits shall become due and shall be paid no
8 later than on the tenth day after the employer has been notified
9 of the occurrence of the total disability and thereafter shall
10 be paid weekly.

11 (b) When a hazardous duty related disease causes total
12 disability not determined to be permanent in character, the
13 employer shall pay the firefighter a weekly benefit of one
14 hundred per cent of the firefighter's average weekly wages for
15 the duration of the disability. If a firefighter is unable to
16 complete a regular daily work shift due to a hazardous duty
17 related disease, the firefighter shall be deemed totally
18 disabled for work for that day.

19 The employer shall pay temporary total disability benefits
20 promptly as they accrue to the entitled firefighter without
21 waiting for a decision from the director. The first payment of



1 benefits shall become due and shall be paid no later than on the
2 tenth day after the employer has been notified of the occurrence
3 of the total disability and then shall be paid weekly.

4 The payment of benefits pursuant to this subsection shall
5 only be terminated if the firefighter is able to resume work.

6 When the employer is of the opinion that temporary total
7 disability benefits should be terminated, the employer shall
8 notify the firefighter in writing at least two weeks prior to
9 the date when the last payment is to be made. The notice shall
10 give the reason for stopping payment and shall inform the
11 firefighter that the firefighter may make a written request to
12 the director for a hearing if the firefighter disagrees with the
13 employer. Upon receipt of the request from the firefighter, the
14 director shall conduct a hearing as expeditiously as possible
15 and render a prompt decision. If the firefighter is unable to
16 perform light work, if offered, temporary total disability
17 benefits shall not be discontinued based solely on the inability
18 to perform or continue to perform light work.

19 § -8 Entitlement to and rate of compensation. (a)

20 Where a hazardous duty related disease causes death, the
21 employer shall pay funeral expenses not to exceed ten times the



1 maximum weekly benefit rate to the mortician and for burial
2 expenses not to exceed five times the maximum weekly benefit
3 rate to the cemetery selected by the family including a
4 reciprocal beneficiary or next of kin of the deceased or in the
5 absence of family, a reciprocal beneficiary or next of kin, by
6 the employer. Payments shall be made directly to the mortician
7 and cemetery.

8 (b) In addition, the employer shall pay weekly benefits to
9 the deceased's dependents at the percentages of the deceased's
10 average weekly wages specified below; provided that the weekly
11 benefits shall not exceed the maximum weekly benefit rate
12 prescribed in this section divided by .6667 and not less than
13 the minimum prescribed in this section divided by .6667:

14 (1) To the dependent widow, widower, or reciprocal
15 beneficiary, if there are no dependent children, fifty
16 per cent.

17 (2) To the dependent widow, widower, or reciprocal
18 beneficiary, if there are one or more dependent
19 children of the deceased, 66.6667 per cent. The
20 compensation to the widow, widower, or reciprocal
21 beneficiary shall be for the use and benefit of the



1 widow, widower, or reciprocal beneficiary and of the
2 dependent children, and the director from time to time
3 may apportion the compensation between them in a way
4 as the director deems best.

5 (3) If there is no dependent widow, widower, or reciprocal
6 beneficiary, but there is a dependent child, then to
7 the child forty per cent, and if there is more than
8 one dependent child, then to the children in equal
9 parts 66.6667 per cent.

10 (4) If there is no dependent widow, widower, or reciprocal
11 beneficiary, or child, but there is a dependent
12 parent, then to the parent, if wholly dependent fifty
13 per cent, or if partially dependent twenty-five per
14 cent; provided that if both parents are dependent,
15 then one-half of the compensation provided in this
16 paragraph to each of them; if there is no dependent
17 parent, but one or more dependent grandparents, then
18 to each of them the same compensation as to a parent.

19 (5) If there is no dependent widow, widower, or reciprocal
20 beneficiary, child, parent or grandparent, but there
21 is a dependent grandchild, brother, or sister, or two



1 or more of them, then to those dependents thirty-five
2 per cent for one dependent, increased by fifteen per
3 cent for each additional dependent, to be divided
4 equally among the dependents if more than one.

5 (c) The sum of all weekly benefits payable to the
6 dependents of the deceased employee shall not exceed one hundred
7 per cent of the firefighter's average weekly wages, computed by
8 observing the limits specified in subsection (b), and
9 accordingly, individual benefits shall be proportionally
10 reduced.

11 (d) If there are no dependents who are entitled to
12 benefits under this section, the employer shall pay an amount
13 equal to twenty-five per cent of three hundred twelve times the
14 effective maximum weekly benefit rate provided in this section,
15 to the nondependent parent or parents.

16 § -9 **Dependents.** (a) The following persons, and no
17 others, shall be deemed dependents and entitled to income and
18 indemnity benefits under this chapter:

19 (1) A child who is:

20 (A) Unmarried and under eighteen years;



1 (B) Unmarried and under twenty years if the child is
2 a full-time student at a high school, business
3 school, or technical school, or unmarried and
4 under twenty-two years if the child is a full-
5 time undergraduate student at a college;

6 (C) Unmarried and incapable of self-support; or

7 (D) Married and under eighteen years, if actually
8 dependent upon the deceased;

9 (2) The surviving spouse or reciprocal beneficiary, if
10 either living with the deceased at the time of the
11 hazardous duty related disease or actually dependent
12 upon the deceased;

13 (3) A parent or grandparent, if actually dependent upon
14 the deceased; and

15 (4) A grandchild, brother, or sister, if under eighteen
16 years or incapable of self-support, and actually and
17 wholly dependent upon the deceased.

18 (b) A person shall be deemed to be actually dependent upon
19 the deceased, if the deceased contributed all or a substantial
20 portion of the living expenses of that person at the time of
21 being diagnosed with a hazardous duty related disease.



1 (c) Alien dependents not residing in the United States at
2 the time that the hazardous duty related disease was diagnosed
3 or leaving the United States subsequently shall maintain annual
4 proof of dependency as required by the director.

5 § -10 **Duration of dependents' weekly benefits.** (a) The
6 weekly benefits to dependents shall continue:

7 (1) To a surviving spouse or reciprocal beneficiary, until
8 death, remarriage, marriage, or entry into a new
9 reciprocal beneficiary relationship with two years'
10 compensation in one sum upon remarriage, marriage, or
11 entry into a new reciprocal beneficiary relationship;

12 (2) To or for a child:

13 (A) So long as unmarried, until attainment of the age
14 of eighteen;

15 (B) So long as unmarried, until attainment of the age
16 of:

17 (i) Twenty if the child is a full-time student
18 at a high school, business school, technical
19 school; or

20 (ii) Twenty-two if the child is a full-time
21 undergraduate student at a college;



1 (C) So long as unmarried, until termination of the
2 child's incapability of self-support; or

3 (D) Until marriage, except that in the case of a
4 married child under eighteen, weekly benefits
5 shall continue during the period of actual
6 dependency until attainment of the age of
7 eighteen;

8 (3) To a parent or grandparent, for the duration, whether
9 continuous or not, of the actual dependency; provided
10 that the amount of the weekly benefits shall at no
11 time exceed the amount payable at the time of death;
12 and

13 (4) To or for a grandchild, brother, or sister, for the
14 period in which that grandchild, brother, or sister
15 remains actually and wholly dependent until attainment
16 of the age of eighteen or termination of the
17 incapability of self-support.

18 (b) The aggregate weekly benefits payable on account of
19 any one death shall not exceed the product of three hundred
20 twelve times the effective maximum weekly benefit rate
21 prescribed in section -8, but this limitation shall not apply



1 with respect to benefits to a surviving spouse or reciprocal
2 beneficiary who is physically or mentally incapable of self-
3 support and unmarried as long as that surviving spouse or
4 reciprocal beneficiary remains in that condition and to benefits
5 to a child and to benefits to an unmarried child over eighteen
6 incapable of self-support as long as that unmarried child is
7 otherwise entitled to compensation.

8 (c) Upon the cessation under this section of compensation
9 to or for any person, the benefits of the remaining dependents
10 in the same class for any further period during which they are
11 entitled to weekly payments shall be in the amounts which they
12 would have received, had they been the only dependents entitled
13 to benefits at the time of the firefighter's death.

14 § -11 **Presumptions.** In any proceeding for the
15 enforcement of a claim for compensation under this chapter, it
16 shall be presumed, in the absence of substantial evidence to the
17 contrary, that:

- 18 (1) The claim is for a hazardous duty related disease;
19 (2) Sufficient notice of the hazardous duty related
20 disease has been given;



1 (3) The hazardous duty related disease was not caused by
2 the intoxication of the firefighter; and

3 (4) The hazardous duty related disease was not caused by
4 the wilful intention of the firefighter."

5 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Cancer; Firefighters; Service Connected Disability; Medical Coverage

Description:

Improves access for firefighters to comprehensive medical coverage and service-connected disability retirement benefits upon diagnosis with or death from cancer that is presumed to arise out of and in the course of employment. Effective 7/1/2050. (SD1)

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