

JAN 17 2025

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§386- Firefighters and law enforcement officers suffering from disease of the heart. (a) A disease of the heart shall be presumed to have been proximately caused by and resulted from the nature of an employee's employment if:

(1) The employee has at least two years of full-time, continuous, and uninterrupted service as a firefighter or law enforcement officer in the State; and

(2) The disease is diagnosed and causes disablement:

(A) During the course of the employee's employment;

(B) After the employee ceases employment before

completing twenty years of service as a

firefighter or law enforcement officer, and

during a period after separation from employment

that is equal to the number of years worked; or



1 (C) After the employee ceases employment after
2 completing twenty years or more of service as a
3 firefighter or law enforcement officer, at any
4 time during the employee's life.

5 (b) If an employee is separated from service pursuant to
6 subsection (a)(2)(B) or (C), the presumption established in
7 subsection (a) shall not apply if the employee:

8 (1) Frequently or regularly used a tobacco product within
9 the one-year period immediately preceding the filing
10 of a claim; or

11 (2) Materially departed from a physician's prescribed plan
12 of care within the three-month period immediately
13 preceding the filing of a claim.

14 (c) A disease of the heart that results in either
15 temporary or permanent disability or death shall be considered a
16 disease proximately caused by or resulting from the nature of
17 employment and shall be compensable under this chapter if:

18 (1) The disease is caused by extreme overexertion in times
19 of stress or danger; and

20 (2) A relationship can be shown by competent evidence that
21 the disability or death arose out of and was caused by



1 the performance of duties as a volunteer firefighter
2 who has served continuously as a volunteer firefighter
3 in this State by continuously maintaining an active
4 status on the roster of a volunteer fire department.

5 (d) Except as otherwise provided in subsection (e), each
6 employee who is to be covered for diseases of the heart under
7 this section shall submit to a physical examination, including
8 an examination of the heart, upon employment, upon commencement
9 of coverage, and thereafter on an annual basis during the
10 employee's employment.

11 (e) During the period in which a volunteer firefighter is
12 continuously on active status on the roster of a volunteer fire
13 department, a physical examination for the volunteer firefighter
14 shall be required:

- 15 (1) Upon commencement of employment;
16 (2) Upon commencement of coverage; and
17 (3) Once every three years after the physical examination
18 required pursuant to paragraph (2), until the
19 volunteer firefighter reaches the age of fifty years;
20 provided that a volunteer firefighter who is fifty
21 years of age or older shall submit to a physical



1 examination once every two years during the volunteer
2 firefighter's employment.

3 (f) The employer of the volunteer firefighter shall be
4 responsible for scheduling the physical examination required
5 under subsection (e). The employer shall mail to the volunteer
6 firefighter a written notice of the date, time, and place of the
7 physical examination at least ten days before the date of the
8 physical examination and shall obtain, at the time of mailing, a
9 certificate of mailing issued by the United States Postal
10 Service.

11 (g) Failure to submit to a physical examination that is
12 scheduled by the employee's employer pursuant to subsection (f)
13 shall disqualify the volunteer firefighter from the benefits of
14 this section.

15 (h) The chief of a volunteer fire department may require
16 an applicant to pay for a physical examination required under
17 this section if the applicant is:

18 (1) Applying to the volunteer fire department for the
19 first time as a volunteer firefighter; and

20 (2) Fifty years of age or older on the date of the
21 person's application to the volunteer fire department.



1 (i) The volunteer fire department shall reimburse an
2 applicant for the cost of a physical examination required under
3 this section if the applicant:

4 (1) Paid for the physical examination in accordance with
5 subsection (h);

6 (2) Is declared physically fit to perform the duties
7 required of a firefighter; and

8 (3) Becomes a volunteer with the volunteer fire
9 department.

10 (j) Except as otherwise provided in subsection (h), all
11 physical examinations required pursuant to subsections (d) and
12 (e) shall be paid for by the employer.

13 (k) An employee shall be disqualified from the benefits of
14 this section if the employee:

15 (1) Is ordered by a physician who performs the physical
16 examination required by subsections (d) and (e) to
17 correct a predisposing condition that leads to heart
18 disease;

19 (2) The correction ordered under paragraph (1) is within
20 the ability of the employee; and



1 (3) The employee fails to correct the predisposing
2 condition as ordered under paragraph (1).

3 (1) A person who is determined to be:

4 (1) Partially disabled from an occupational disease
5 pursuant to the provisions of this section; and

6 (2) Incapable of performing, with or without remuneration,
7 work as a firefighter or law enforcement officer,
8 may elect to receive the benefits provided under section 386-31
9 for a permanent total disability.

10 (m) Claims filed under this section may be reopened at any
11 time during the life of the employee for further examination and
12 treatment of the employee upon certification by a physician of a
13 change in circumstances related to the disease that would
14 warrant an increase or rearrangement of compensation.

15 (n) As used in this section:

16 "Firefighter" means a person who works for a state or
17 county agency and whose principal duties are to prevent and
18 fight fires. "Firefighter" includes a volunteer firefighter.

19 "Law enforcement officer" means a sheriff or deputy
20 sheriff, a police officer, an enforcement officer within the
21 division of conservation and resources enforcement of the



1 department of land and natural resources, a special agent of the
2 department of the attorney general, and any other public servant
3 vested by law with a duty to maintain public order, make arrests
4 for offenses, or enforce criminal laws, whether that duty
5 extends to all offenses or is limited to a specific class of
6 offenses.

7 "Volunteer firefighter" has the same meaning as in section
8 386-181(a)."

9 SECTION 2. Section 386-82, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§386-82 Claim for compensation; limitation of time. (a)**

12 The right to compensation under this chapter shall be barred
13 unless a written claim therefor is made to the director of labor
14 and industrial relations[+]:[+]

15 (1) Within two years after the date at which the effects
16 of the injury for which the employee is entitled to
17 compensation have become manifest; and

18 (2) Within five years after the date of the accident or
19 occurrence which caused the injury.

20 (b) The [~~foregoing~~] limitations of time described in
21 subsection (a) shall not apply to a claim for injury [~~caused~~]:



1 (1) Caused by compressed air [~~or due~~];

2 (2) Due to occupational exposure to, or contact with,
3 arsenic, asbestos, benzol, beryllium, zirconium,
4 cadmium, chrome, lead, fluorine, or other mineral or
5 substance with carcinogenic properties, as
6 incorporated in the Hawaii Occupational Safety and
7 Health Standards[~~or~~];

8 (3) Due to exposure to X-rays, radium, ionizing radiation,
9 or radioactive substances[~~or~~]; or

10 (4) Disease of the heart under section 386- ,

11 but [~~such~~] the claim shall be barred unless it is made to the
12 director, in writing, within two years after knowledge that the
13 injury or disease was proximately caused by, or resulted from
14 the nature of, the employment. The claim may be made by the
15 injured employee or the employee's dependents or by some other
16 person on the employee's or their behalf. The claim shall state
17 in ordinary language the time, place, nature, and cause of the
18 injury."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Lyn DeCorte



S.B. NO. 555

Report Title:

Workers' Compensation; Firefighters; Law Enforcement Officers;
Heart Disease

Description:

Creates a presumption for workers' compensation purposes that diseases of the heart in firefighters and law enforcement officers were proximately caused by and resulted from the nature of the person's employment if certain conditions are met. Exempts injuries caused by disease of the heart from certain time limitations applicable to workers' compensation claims. Establishes a process for regular physical examinations of firefighters and law enforcement officers to reduce heart disease risks.

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