

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 621

S.P. 235

In Senate, February 17, 2009

**An Act Allowing Workers' Compensation Benefits for Firefighters
Who Contract Cancer**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BARTLETT of Cumberland.
Cosponsored by Speaker PINGREE of North Haven and
Senators: COURTNEY of York, JACKSON of Aroostook, McCORMICK of Kennebec,
Representatives: CAMPBELL of Newfield, FLETCHER of Winslow, LAJOIE of Lewiston,
PRATT of Eddington, RUSSELL of Portland.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 39-A MRSA §328-B is enacted to read:

3 **§328-B. Cancer suffered by a firefighter**

4 Cancer suffered by a firefighter is governed by this section.

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
6 following terms have the following meanings.

7 A. "Cancer" means a cancer affecting the skin or the central nervous, lymphatic,
8 digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver
9 or prostate systems or that may result from exposure to heat, radiation or a known or
10 suspected carcinogen.

11 B. "Employed" means to be employed as an active duty firefighter or to be an active
12 member of a volunteer fire association with no compensation other than injury and
13 death benefits.

14 C. "Firefighter" means a municipal firefighter as defined in Title 30-A, section 3151,
15 subsection 2 or a volunteer firefighter as defined in Title 30-A, section 3151,
16 subsection 4.

17 **2. Presumption.** If a firefighter who contracts cancer has met the requirements of
18 subsection 3, there is a rebuttable presumption that the firefighter contracted the disease
19 arising out of and in the course of employment as a firefighter, that sufficient notice of
20 the disease has been given and that the disease was not occasioned by the willful
21 intention of the firefighter to cause the disease.

22 **3. Required medical tests.** In order to be entitled to the presumption in subsection
23 2, during the time of employment as a firefighter the firefighter must have undergone a
24 standard, medically acceptable test for evidence of the cancer for which the presumption
25 is sought or evidence of the medical conditions derived from the disease, which test failed
26 to indicate the presence or condition of cancer. This subsection does not apply to a
27 firefighter who is employed on the effective date of this section.

28 **4. Liability if services performed for more than one employer.** If a firefighter
29 who contracts cancer and qualifies for the presumption under subsection 2 was employed
30 by more than one employer, the employer of the firefighter and the insurer of that
31 employer at the time of the last exposure to the risk of the cancer are the only persons
32 liable under this Part.

33 **5. Retired firefighters.** This section applies to a firefighter who is diagnosed with
34 cancer within 20 years of the firefighter's last active employment as a firefighter.

35 **SUMMARY**

36 This bill creates a rebuttable presumption under the Maine Workers' Compensation
37 Act of 1992 that a firefighter who contracts cancer contracted the disease in the course of

1 employment as a firefighter if the firefighter, during the time of that firefighter's
2 employment, received a test for cancer that failed to detect the cancer. This bill makes
3 the last employer for whom the firefighter worked at the time of the last exposure to the
4 risk of cancer and that employer's insurer liable for the cancer.