

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

2. Confidentiality. Except as provided in subsection 3, body mass index data collected pursuant to subsection 1 are confidential and are not subject to disclosure pursuant to Title 1, chapter 13.

3. Reporting of data. A school nurse shall report the data collected under subsection 1 to the Department of Health and Human Services, Maine Center for Disease Control and Prevention. Data reported pursuant to this subsection may be reported in the aggregate only and may not identify an individual student.

4. Funding. In the event federal funds are not available for collecting and reporting data pursuant to this section, the State, municipality or school administrative unit is under no obligation to use any state, municipal or school administrative unit funds to carry out the purposes of this section.

5. Rules. The Department of Health and Human Services shall adopt routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A to implement this section. The rules must at a minimum:

- A. Establish a schedule and protocol for the collection of data from students; and
- B. Provide a method for uniform reporting of the collected data to the Maine Center for Disease Control and Prevention.

See title page for effective date.

**CHAPTER 408
S.P. 235 - L.D. 621**

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

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

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

§328-B. Cancer suffered by a firefighter

Cancer suffered by a firefighter is governed by this section.

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

- A. "Cancer" means kidney cancer, non-Hodgkin's lymphoma, colon cancer, leukemia, brain cancer, bladder cancer, multiple myeloma, prostate cancer, testicular cancer or breast cancer.
- B. "Employed" means to be employed as an active duty firefighter or to be an active member of a

volunteer fire association with no compensation other than injury and death benefits.

C. "Firefighter" means a member of a municipal fire department or volunteer fire association whose duties include the extinguishment of fires.

2. Presumption. If a firefighter who contracts cancer has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that the firefighter contracted the cancer in the course of employment as a firefighter and as a result of that employment, that sufficient notice of the cancer has been given and that the disease was not occasioned by any willful act of the firefighter to cause the disease.

3. Medical tests. In order to be entitled to the presumption in subsection 2, during the time of employment as a firefighter, the firefighter must have undergone a standard, medically acceptable test for evidence of the cancer for which the presumption is sought or evidence of the medical conditions derived from the disease, which test failed to indicate the presence or condition of cancer.

4. Liability if services performed for more than one employer. If a firefighter who contracts cancer was employed as a firefighter by more than one employer and qualifies for the presumption under subsection 2, and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to the risk of the cancer are liable under this Part.

5. Retired firefighter. This section applies to a firefighter who is diagnosed with cancer within 10 years of the firefighter's last active employment as a firefighter or prior to attaining 70 years of age, whichever occurs first.

6. Length of service. In order to qualify for the presumption under subsection 2, the firefighter must have been employed as a firefighter for 5 years and regularly responded to firefighting or emergency calls.

7. Written verification. In order to qualify for the presumption under subsection 2, a firefighter must sign a written affidavit declaring, to the best of the firefighter's knowledge and belief, that the firefighter's diagnosed cancer is not prevalent among the firefighter's blood-related parents, grandparents or siblings and that the firefighter has no substantial lifetime exposures to carcinogens that are associated with the firefighter's diagnosed cancer other than exposure through firefighting.

See title page for effective date.