
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 in the course of duty to contaminants that are known or
3 suspected to cause cancer. Although fire departments are
4 expected to use the best equipment and management practices
5 available, firefighters are still regularly exposed to multiple
6 carcinogens since residential and vehicle fires release highly
7 concentrated toxicants from burning plastics and other
8 synthetics. In October 2013, researchers from the National
9 Institute for Occupational Safety and Health published a study
10 that found that firefighters have a higher cancer risk than the
11 general population. The study looked at cancer diagnoses and
12 deaths among 30,000 firefighters from Chicago, Philadelphia, and
13 San Francisco fire departments and found that oral cancer and
14 cancers of the respiratory, digestive, and urinary systems were
15 the most common types found.

16 The legislature further finds that House Concurrent
17 Resolution No. 32, H.D.1, S.D.1, regular session of 2016,



1 convened a task force to examine cancer in the firefighting
2 profession. The task force found that some states, including
3 Arizona, California, Nevada, North Dakota, and Virginia, have
4 statutorily provided for special benefit programs for
5 firefighters diagnosed with cancer due to the higher
6 occupational risk they assume in the performance of their
7 essential public service. Providing sufficient medical coverage
8 and disability indemnity for firefighters will ensure that
9 firefighters receive proper medical treatment in a timely manner
10 and also lessen the emotional toil, financial burden, and impact
11 of decreased quality of life on firefighters diagnosed with
12 cancer and their families.

13 The purpose of this Act is to provide expanded benefits
14 equal to one hundred per cent of average weekly wages,
15 disability indemnity, and death benefits, paid for by the
16 employer. The legislature notes that this Act does not create
17 any new benefit or enhance the existing benefits available to
18 firefighters under the employees' retirement system. Rather, it
19 improves firefighters' access to comprehensive medical coverage
20 and service-connected disability retirement benefits for



1 hazardous duty related diseases that are presumed to arise out
2 of and in the course of employment.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 HAZARDOUS DUTY RELATED DISEASES TREATMENT INSURANCE BENEFITS

8 § -1 Definitions. As used in this chapter:

9 "Director" means the director of labor and industrial
10 relations.

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

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

14 "Hazardous duty related disease" means cancer.

15 "Known carcinogen" means any of the carcinogenic agents
16 recognized as such by the International Agency for Research on
17 Cancer or the department of health.

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



1 § -2 Health coverage. (a) All individual and group
2 accident and health or sickness insurance policies issued in
3 this State, individual or group hospital or medical service plan
4 contracts, and nonprofit mutual benefit society, fraternal
5 benefit society, and health maintenance organization health plan
6 contracts shall include within their hospital and medical
7 coverage the benefits of hazardous duty related disease
8 treatment for firefighters, except that this section shall not
9 apply to insurance policies that are issued solely for single
10 diseases, or otherwise limited, specialized coverage.

11 (b) The policies and contracts set forth in subsection (a)
12 shall not be construed as reducing any obligation to provide
13 services to an individual under any publicly funded program, an
14 individualized family service plan, an individualized education
15 program, or an individualized service plan.

16 (c) Coverage under this section shall exclude coverage
17 for:

- 18 (1) Care that is custodial in nature;
19 (2) Services and supplies that are not clinically
20 appropriate;
21 (3) Services provided by family or household members;



1 (4) Treatments considered experimental; and

2 (5) Services provided outside of the State.

3 (d) Coverage under this section may be subject to
4 copayment, deductible, and coinsurance provisions of a policy
5 that are no less favorable than the copayment, deductible, and
6 coinsurance provisions for substantially all medical services
7 covered by the plan contract.

8 (e) The fees for medical care services and supplies for
9 firefighters who develop a hazardous duty related disease shall
10 be fully reimbursed based on the usual and customary charges
11 comparable to mutual benefit societies, health maintenance
12 organizations, and the Hawaii employer-union health benefits
13 trust fund for fees actually received by providers of health
14 care services and supplies.

15 **§ -3 Inapplicability of workers' compensation law.**

16 Chapter 386 shall not apply to firefighters who develop a
17 hazardous duty related disease and receive benefits pursuant to
18 this chapter.

19 **§ -4 Hazardous duty related disease benefits;**

20 **presumption; screenings.** (a) If a firefighter develops a
21 hazardous duty related disease, the condition shall be presumed



1 to arise out of and in the course of employment as a
2 firefighter. The benefits shall include a benefit equal to one
3 hundred per cent of the firefighter's average weekly wages,
4 disability indemnity, and death benefits paid for by the
5 employer.

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

10 (c) The employer shall pay for annual appropriate
11 screenings and preventative screenings for hazardous duty
12 related diseases for the firefighter; provided that the
13 firefighter need not be diagnosed with a hazardous duty related
14 disease as a condition for payment by the employer of the costs
15 of receiving a preventative screening for a hazardous duty
16 related disease.

17 § -5 Disability retirement. (a) If a firefighter who
18 has completed one or more years of credited service develops a
19 hazardous duty related disease or dies due to a hazardous duty
20 related disease, the death or hazardous duty related disease
21 shall be presumed to arise out of and in the course of



1 employment; provided that the firefighter shall have taken a
2 physical examination upon becoming a firefighter, or subsequent
3 thereto, that failed to reveal any evidence of the condition or
4 impairment to health.

5 The benefits that are awarded upon manifestation of or
6 death from a hazardous duty related disease shall include full
7 hospital, surgical, medical treatment, disability indemnity, and
8 death benefits, as provided by this chapter and chapter 88. The
9 computation of benefits authorized pursuant to this section
10 shall not include the firefighter's credited vacation or sick
11 leave while undergoing medical treatment for the condition.

12 (b) Notwithstanding the existence of nonindustrial
13 predisposing or contributing factors, any firefighter
14 permanently incapacitated from the performance of duty as a
15 result of a hazardous duty related disease, shall receive a
16 service-connected disability retirement if the firefighter was
17 exposed to a known carcinogen due to the performance of job
18 duties.

19 (c) The presumption under subsection (a) shall be
20 rebuttable only by a finding of substantial evidence to the



1 contrary. This presumption shall be extended to a firefighter
2 in perpetuity following termination of service.

3 **§ -6 Payment after death.** When a firefighter is
4 entitled to weekly income and indemnity benefits for permanent
5 total disability and dies from any cause other than a hazardous
6 duty related disease, payment of any unpaid balance of the
7 benefits to the extent that the employer is liable, shall be
8 made to the firefighter's dependents as follows:

- 9 (1) To a dependent widow, widower, or reciprocal
10 beneficiary, for the use of the widow, widower, or
11 reciprocal beneficiary, and the dependent children, if
12 any. The director may from time to time apportion the
13 compensation among the widow, widower, or reciprocal
14 beneficiary, and any dependent children;
- 15 (2) If there is no dependent widow, widower, or reciprocal
16 beneficiary, but one or more dependent children, then
17 to the child or children to be divided equally among
18 them if more than one;
- 19 (3) If there is no dependent widow, widower, reciprocal
20 beneficiary, or child, but there is a dependent
21 parent, then to the parent, or if both parents are



1 dependent, to both of them, to be divided equally
 2 between them; or if there are no parents, but a
 3 dependent grandparent, then to the grandparent, or if
 4 more than one, then to all of them to be divided
 5 equally among them; and

6 (4) If there is no dependent widow, widower, reciprocal
 7 beneficiary, child, parent, or grandparent, but there
 8 is a dependent grandchild, brother, or sister, then to
 9 the dependent, or if more than one, then to all of
 10 them to be divided equally among them.

11 § -7 Total disability; permanent; temporary. (a) Where
 12 a hazardous duty related disease causes permanent total
 13 disability, the employer shall pay the firefighter a weekly
 14 benefit equal to one hundred per cent of the firefighter's
 15 weekly wages.

16 The employer shall pay permanent total disability benefits
 17 promptly as they accrue to the firefighter entitled to the
 18 benefits without waiting for a decision from the director. The
 19 first payment of benefits shall become due and shall be paid no
 20 later than on the tenth day after the employer has been notified



1 of the occurrence of the total disability and thereafter shall
2 be paid weekly.

3 (b) When a hazardous duty related disease causes total
4 disability not determined to be permanent in character, the
5 employer shall pay the firefighter a weekly benefit of one
6 hundred per cent of the firefighter's average weekly wages for
7 the duration of the disability. If a firefighter is unable to
8 complete a regular daily work shift due to a hazardous duty
9 related disease, the firefighter shall be deemed totally
10 disabled for work for that day.

11 The employer shall pay temporary total disability benefits
12 promptly as they accrue to the entitled firefighter without
13 waiting for a decision from the director. The first payment of
14 benefits shall become due and shall be paid no later than on the
15 tenth day after the employer has been notified of the occurrence
16 of the total disability and then shall be paid weekly.

17 The payment of benefits pursuant to this subsection shall
18 only be terminated if the firefighter is able to resume work.
19 When the employer is of the opinion that temporary total
20 disability benefits should be terminated, the employer shall
21 notify the firefighter in writing at least two weeks prior to



1 the date when the last payment is to be made. The notice shall
2 give the reason for stopping payment and shall inform the
3 firefighter that the firefighter may make a written request to
4 the director for a hearing if the firefighter disagrees with the
5 employer. Upon receipt of the request from the firefighter, the
6 director shall conduct a hearing as expeditiously as possible
7 and render a prompt decision. If the firefighter is unable to
8 perform light work, if offered, temporary total disability
9 benefits shall not be discontinued based solely on the inability
10 to perform or continue to perform light work.

11 **§ -8 Entitlement to and rate of compensation. (a)**

12 Where a hazardous duty related disease causes death, the
13 employer shall pay funeral expenses not to exceed ten times the
14 maximum weekly benefit rate to the mortician and for burial
15 expenses not to exceed five times the maximum weekly benefit
16 rate to the cemetery selected by the family including a
17 reciprocal beneficiary or next of kin of the deceased or in the
18 absence of family, a reciprocal beneficiary or next of kin, by
19 the employer. Payments shall be made directly to the mortician
20 and cemetery.



1 (b) In addition, the employer shall pay weekly benefits to
2 the deceased's dependents at the percentages of the deceased's
3 average weekly wages specified below; provided that the weekly
4 benefits shall not exceed the maximum weekly benefit rate
5 prescribed in this section divided by .6667 and not less than
6 the minimum prescribed in this section divided by .6667:

7 (1) To the dependent widow, widower, or reciprocal
8 beneficiary, if there are no dependent children, fifty
9 per cent.

10 (2) To the dependent widow, widower, or reciprocal
11 beneficiary, if there are one or more dependent
12 children of the deceased, 66.6667 per cent. The
13 compensation to the widow, widower, or reciprocal
14 beneficiary shall be for the use and benefit of the
15 widow, widower, or reciprocal beneficiary and of the
16 dependent children, and the director from time to time
17 may apportion the compensation between them in a way
18 as the director deems best.

19 (3) If there is no dependent widow, widower, or reciprocal
20 beneficiary, but there is a dependent child, then to
21 the child forty per cent, and if there is more than



1 one dependent child, then to the children in equal
2 parts 66.6667 per cent.

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

12 (5) If there is no dependent widow, widower, or reciprocal
13 beneficiary, child, parent or grandparent, but there
14 is a dependent grandchild, brother, or sister, or two
15 or more of them, then to those dependents thirty-five
16 per cent for one dependent, increased by fifteen per
17 cent for each additional dependent, to be divided
18 equally among the dependents if more than one.

19 (c) The sum of all weekly benefits payable to the
20 dependents of the deceased employee shall not exceed one hundred
21 per cent of the firefighter's average weekly wages, computed by



1 observing the limits specified in subsection (b), and
2 accordingly, individual benefits shall be proportionally
3 reduced.

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

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

- 12 (1) A child who is:
- 13 (A) Unmarried and under eighteen years;
 - 14 (B) Unmarried and under twenty years if the child is
15 a full-time student at a high school, business
16 school, or technical school, or unmarried and
17 under twenty-two years if the child is a full-
18 time undergraduate student at a college;
 - 19 (C) Unmarried and incapable of self-support; or
 - 20 (D) Married and under eighteen years, if actually
21 dependent upon the deceased;



1 (2) The surviving spouse or reciprocal beneficiary, if
2 either living with the deceased at the time of the
3 hazardous duty related disease or actually dependent
4 upon the deceased;

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

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

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

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

18 § -10 Duration of dependents' weekly benefits. (a) The
19 weekly benefits to dependents shall continue:

20 (1) To a surviving spouse or reciprocal beneficiary, until
21 death, remarriage, marriage, or entry into a new



1 reciprocal beneficiary relationship with two years'
2 compensation in one sum upon remarriage, marriage, or
3 entry into a new reciprocal beneficiary relationship;

4 (2) To or for a child:

5 (A) So long as unmarried, until attainment of the age
6 of eighteen;

7 (B) So long as unmarried, until attainment of the age
8 of:

9 (i) Twenty if the child is a full-time student
10 at a high school, business school, technical
11 school; or

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

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

16 (D) Until marriage, except that in the case of a
17 married child under eighteen, weekly benefits
18 shall continue during the period of actual
19 dependency until attainment of the age of
20 eighteen;



1 (3) To a parent or grandparent, for the duration, whether
2 continuous or not, of the actual dependency; provided
3 that the amount of the weekly benefits shall at no
4 time exceed the amount payable at the time of death;
5 and

6 (4) To or for a grandchild, brother, or sister, for the
7 period in which that grandchild, brother, or sister
8 remains actually and wholly dependent until attainment
9 of the age of eighteen or termination of the
10 incapability of self-support.

11 (b) The aggregate weekly benefits payable on account of
12 any one death shall not exceed the product of three hundred
13 twelve times the effective maximum weekly benefit rate
14 prescribed in section -8, but this limitation shall not apply
15 with respect to benefits to a surviving spouse or reciprocal
16 beneficiary who is physically or mentally incapable of self-
17 support and unmarried as long as that surviving spouse or
18 reciprocal beneficiary remains in that condition and to benefits
19 to a child and to benefits to an unmarried child over eighteen
20 incapable of self-support as long as that unmarried child is
21 otherwise entitled to compensation.



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

7 § -11 Presumptions. In any proceeding for the
8 enforcement of a claim for compensation under this chapter, it
9 shall be presumed, in the absence of substantial evidence to the
10 contrary, that:

- 11 (1) The claim is for a hazardous duty related disease;
- 12 (2) Sufficient notice of the hazardous duty related
13 disease has been given;
- 14 (3) The hazardous duty related disease was not caused by
15 the intoxication of the firefighter; and
- 16 (4) The hazardous duty related disease was not caused by
17 the wilful intention of the firefighter."

18 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. (HB913 HD2)

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