

REFERENCE TITLE: firefighter; occupational disease; presumption

State of Arizona
House of Representatives
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HB 2679

Introduced by

Representatives Hernandez A: Carter P, Contreras L, Contreras P,
Gutierrez, Hernandez C, Hernandez L, Luna-Nájera, Martinez, Peña, Travers,
Volk, Willoughby; Senators Gonzales, Gowan, Payne

AN ACT

AMENDING SECTION 23-1105, ARIZONA REVISED STATUTES; RELATING TO WORKERS'
COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-1105, Arizona Revised Statutes, is amended to
3 read:

4 23-1105. Heart-related, perivascular and pulmonary cases;
5 firefighters; presumption; definition

6 A. A heart-related, perivascular or pulmonary injury, illness or
7 death of a firefighter is presumed to be an occupational disease as
8 defined in section 23-901, paragraph 13, subdivision (c), compensable
9 pursuant to section 23-1043.01 and deemed to arise out of employment if
10 all of the following apply:

11 1. The firefighter passed a physical examination before employment
12 and the examination did not indicate evidence of heart-related,
13 perivascular or pulmonary injury or illness.

14 2. The firefighter received a physical examination that is
15 reasonably aligned with the national fire protection association standard
16 on comprehensive occupational medical program for fire departments
17 (NFPA 1582).

18 3. The firefighter was exposed to a known event and the
19 heart-related, perivascular or pulmonary injury, illness or death occurred
20 within twenty-four hours after the exposure and was reasonably related to
21 the exposure.

22 B. The presumption provided in subsection A of this section may be
23 rebutted ~~by a preponderance of the evidence that there is a specific cause~~
24 ~~of~~ BY CLEAR AND CONVINCING EVIDENCE THAT DEMONSTRATES ALL OF THE
25 FOLLOWING:

26 1. The heart-related, perivascular or pulmonary injury, illness or
27 death ~~other than the employment~~ WAS SOLELY CAUSED BY A NONOCCUPATIONAL
28 CONDITION.

29 2. THE NONOCCUPATIONAL CONDITION WAS DIAGNOSED AND DOCUMENTED
30 BEFORE THE FIREFIGHTER'S EMPLOYMENT OR QUALIFYING EVENT.

31 3. THE NONOCCUPATIONAL CONDITION WAS INDEPENDENTLY SUFFICIENT TO
32 CAUSE THE INJURY, ILLNESS OR DEATH WITHOUT CONTRIBUTION FROM ANY OF THE
33 FOLLOWING FIREFIGHTER-RELATED DUTIES:

- 34 (a) PHYSICAL EXERTION.
- 35 (b) HEAT STRESS.
- 36 (c) TOXIC EXPOSURE.
- 37 (d) EMERGENCY RESPONSE ACTIVITIES.

38 C. THE FOLLOWING FACTORS DO NOT CONSTITUTE SUFFICIENT EVIDENCE TO
39 REBUT THE PRESUMPTION PROVIDED IN SUBSECTION B OF THIS SECTION:

- 40 1. AGE.
- 41 2. FAMILY HISTORY.
- 42 3. FITNESS LEVEL.
- 43 4. LIFESTYLE FACTORS.
- 44 5. SPECULATION.
- 45 6. STATISTICAL RISK FACTORS.

1 7. POST-EVENT MEDICAL FINDINGS.

2 D. IF A HEART-RELATED, PERIVASCULAR OR PULMONARY INJURY OR ILLNESS
3 OR ABNORMAL CARDIAC RHYTHM OCCURRED WHILE THE FIREFIGHTER IS ON DUTY OR
4 DURING AN EMERGENCY RESPONSE, TRAINING, PHYSICAL CONDITION OR
5 DEPARTMENT-DIRECTED ACTIVITY OR WITHIN TWENTY-FOUR HOURS OF THE ACTIVITY,
6 THE CONDITION IS CONSIDERED AN OCCUPATIONAL DISEASE THAT AROSE OUT OF OR
7 IN THE COURSE OF EMPLOYMENT.

8 ~~E.~~ E. Subsection A of this section does not apply if there is
9 evidence that the firefighter's exposure to cigarettes or tobacco products
10 outside the scope of the firefighter's official duties is a substantial
11 contributing cause in the development of the heart-related, perivascular
12 or pulmonary injury, illness or death.

13 ~~F.~~ F. For the purposes of this section: ~~;~~

14 1. "HEART-RELATED" INCLUDES ANY OF THE FOLLOWING:

15 (a) MYOCARDIAL INFARCTION.

16 (b) ACUTE CORONARY SYNDROME.

17 (c) CARDIAC ARRHYTHMIAS, INCLUDING:

18 (i) SUPRAVENTRICULAR TACHYCARDIA.

19 (ii) ATRIAL FIBRILLATION.

20 (iii) VENTRICULAR TACHYCARDIA.

21 (d) SYNCOPE OR NEAR-SYNCOPE OF CARDIAC ORIGIN.

22 (e) STRUCTURAL OR ELECTRICAL CARDIAC ABNORMALITIES PRECIPITATED OR
23 AGGRAVATED BY OCCUPATIONAL EXERTION OR STRESS.

24 2. "Firefighter" means a firefighter or volunteer firefighter as
25 described in section 23-901, paragraph 6, subdivision (d).