

Fire Fighter Cancer Presumptive Legislation 101

What is a presumptive law?

- A legal presumption is a rule of law that permits a court or exclusive adjudicative body to assume a fact is true until contrary evidence proves otherwise.
- Presumptive cancer laws stipulate that fire fighters diagnosed with cancer while on the job are presumed to have become ill due to their exposure to carcinogens on the job.
- The burden of proof shifts from the employee to the employer to either rebut the presumption or prove that the presumption does not apply to the employee.
- Presumption steps:
 - (1) Criteria to trigger the presumption (see below)
 - (2) Burden shifts to the employer to rebut the presumption
 - (3) If no successful rebuttal, cancer is attributable to the occupation as a matter of law

How do presumptive laws benefit fire fighters?

Presumptive laws are designed to make it easier for fire fighters battling cancer to receive workers' compensation, healthcare benefits, disability benefits, or even death benefits for their families.

The employee diagnosed with an occupational disease or condition covered by a presumptive disability law could be entitled to:

- Payment of medical expenses
- Disability retirement benefits
- Workers' compensation benefits
- Lost wages
- Benefits for spouse/family as the situation allows
- Job retraining
- Permanent impairment payments

Do presumptive laws vary depending on location?

Presumptive laws vary greatly by state or province, so fire fighters should be familiar with the workers' compensation system that applies to them.

Qualifying criteria to trigger the presumption is one of the areas where states/provinces significantly vary. These criteria can include:

- Types of cancer
- Time on the job
- Pre-employment physical/medical history
- Age
- Documented carcinogenic exposure
- When the cancer manifested
- Smoking cessation history



Additional variances among states/provinces:

- “Semi-presumptive” jurisdictions: fire fighters must prove they were exposed to carcinogens “reasonably linked” to cancer to initiate presumption.
- Some states have an insurance program or lump sum settlement only.
- Most states and provinces limit the types of cancers or diseases that are presumed to be associated with firefighting.
- Most states and provinces include rebuttable clauses that allow an employer to challenge that a condition or illness did not come from firefighting but from some other cause. A classic example is if a fire fighter gets cancer but was also a smoker. The employer will rebut the presumption claiming that smoking was the primary cause of the cancer and not firefighting.
- Despite the presence of presumptive legislation, there is still no guarantee that a claim will be approved.

The IAFF [Presumptive Health Initiative](#) provides information on what is covered in your state/province under presumptive care for cancer (along with behavioral health, heart disease, infectious disease, and lung disease).

What can fire fighters do to protect themselves?

Though many states have passed presumptive laws that link firefighting with a disease or condition, it is up to the individual to prove how they were exposed on the job for workers’ compensation claims. To do this, it is important to keep exposure records every time you have been exposed to products of combustion.

The National Fire Operations Reporting System (NFORS) [Exposure Tracker](#) is now available as an app for fire fighters, paramedics, and officers to use as a personal database to provide a detailed history of work and exposures in a private, encrypted, and secure online environment.

