

FIRE FIGHTER CANCER PRESUMPTIVE LEGISLATION 101



This factsheet was developed by the International Association of Fire Fighters and the Firefighter Cancer Support Network.

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, or in some cases, after they've retired, are presumed to have become ill due to their exposure to carcinogens on the job.
- When a presumption is present, 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. Qualifying criteria to trigger the presumptive benefits (see below)
 2. Burden shifts to the employer to rebut the presumption that the cancer has an occupational cause
 3. If rebuttal is unsuccessful, the cancer is attributable to the occupation as a matter of law and the member is eligible for benefits as outlined in the 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/territory, 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





Some of the variances in presumptive legislation among states/provinces/territories include:

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- Legend:
- Presumption Exists
 - Benefit Eligibility
 - Presumption for Death Benefit Only
- Map showing the distribution of death benefit eligibility across the United States by state. States are labeled with their abbreviations.

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