

HOUSE BILL 324

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

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AN ACT

RELATING TO HEALTH; AMENDING SECTION 52-3-32.1 NMSA 1978 (BEING LAWS 2009, CHAPTER 252, SECTION 1) TO ADD POSTTRAUMATIC STRESS DISORDER AND MENTAL HEALTH DISORDER TO THE LIST OF CONDITIONS PRESUMED TO BE PROXIMATELY CAUSED BY EMPLOYMENT AS A FIREFIGHTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 52-3-32.1 NMSA 1978 (being Laws 2009, Chapter 252, Section 1) is amended to read:

"52-3-32.1. FIREFIGHTER OCCUPATIONAL [~~DISEASE~~]  
CONDITIONS.--

A. As used in this section, "firefighter" means a person who is employed as a full-time non-volunteer firefighter by the state or a local government entity and who has taken the oath prescribed for firefighters.

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1           B. If a firefighter is diagnosed with one or more  
2 of the following [~~diseases~~] conditions after the period of  
3 employment indicated, [~~which disease~~] and the condition was not  
4 revealed during an initial employment medical screening  
5 examination or during a subsequent medical review pursuant to  
6 the Occupational Health and Safety Act and rules promulgated  
7 pursuant to that act, the [~~disease~~] condition is presumed to be  
8 proximately caused by employment as a firefighter:

- 9                   (1) brain cancer after ten years;
- 10                   (2) bladder cancer after twelve years;
- 11                   (3) kidney cancer after fifteen years;
- 12                   (4) colorectal cancer after ten years;
- 13                   (5) non-Hodgkin's lymphoma after fifteen
- 14 years;
- 15                   (6) leukemia after five years;
- 16                   (7) ureter cancer after twelve years;
- 17                   (8) testicular cancer after five years if
- 18 diagnosed before the age of forty with no evidence of anabolic
- 19 steroids or human growth hormone use;
- 20                   (9) breast cancer after five years if
- 21 diagnosed before the age of forty without a breast cancer 1 or
- 22 breast cancer 2 genetic predisposition to breast cancer;
- 23                   (10) esophageal cancer after ten years;
- 24                   (11) multiple myeloma after fifteen years;

25       [and]

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1 (12) hepatitis, tuberculosis, diphtheria,  
2 meningococcal disease and methicillin-resistant staphylococcus  
3 aureus appearing and diagnosed after entry into employment; or

4 (13) posttraumatic stress disorder or mental  
5 health disorder diagnosed by a physician or psychologist that  
6 results in physical impairment, primary or secondary mental  
7 impairment or death.

8 C. The presumptions created in [~~Subsection~~]  
9 Subsections B and D of this section may be rebutted by a  
10 preponderance of evidence in a court of competent jurisdiction  
11 showing that the firefighter engaged in conduct or activities  
12 outside of employment that posed a significant risk of  
13 contracting or developing a described [~~disease~~] condition.

14 D. If a firefighter is diagnosed with a heart  
15 injury or stroke suffered within twenty-four hours of fighting  
16 a fire, while responding to an alarm, while returning from an  
17 alarm call, while engaging in supervised physical training or  
18 while responding to or performing in a non-fire emergency, the  
19 heart injury or stroke is presumed to be proximately caused by  
20 employment as a firefighter. The presumption created in this  
21 subsection shall not be made if the firefighter's employer does  
22 not have a current physical training program and the  
23 firefighter does not have a current medical screening  
24 examination or review pursuant to the Occupational Health and  
25 Safety Act and rules promulgated pursuant to that act allowing

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1 participation in that program.

2 E. When any presumptions created in this section do  
3 not apply, it shall not preclude a firefighter from  
4 demonstrating a causal connection between employment and  
5 [~~disease~~] condition or injury by a preponderance of evidence in  
6 a court of competent jurisdiction.

7 F. Medical treatment based on the presumptions  
8 created in this section shall be provided by an employer as for  
9 a job-related [~~illness~~] condition or injury unless and until a  
10 court of competent jurisdiction determines that the presumption  
11 does not apply. If the court determines that the presumption  
12 does not apply or that the [~~illness~~] condition or injury is not  
13 job related, the employer's workers' compensation insurance  
14 provider shall be reimbursed for health care costs by the  
15 medical or health insurance plan or benefit provided for the  
16 firefighter by the employer."