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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 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 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.

B. If a firefighter is diagnosed with one or more
of the following conditions after the period of employment
indicated, and the condition was not revealed during an
initial employment medical screening examination or during a
subsequent medical review pursuant to the Occupational Health
and Safety Act and rules promulgated pursuant to that act,
the condition is presumed to be proximately caused by
employment as a firefighter:

(1) brain cancer after ten years;

(2) bladder cancer after twelve years;

- 1 (3) kidney cancer after fifteen years;
2 (4) colorectal cancer after ten years;
3 (5) non-Hodgkin's lymphoma after fifteen
4 years;
5 (6) leukemia after five years;
6 (7) ureter cancer after twelve years;
7 (8) testicular cancer after five years if
8 diagnosed before the age of forty with no evidence of
9 anabolic steroids or human growth hormone use;
10 (9) breast cancer after five years if
11 diagnosed before the age of forty without a breast cancer 1
12 or breast cancer 2 genetic predisposition to breast cancer;
13 (10) esophageal cancer after ten years;
14 (11) multiple myeloma after fifteen years;
15 (12) hepatitis, tuberculosis, diphtheria,
16 meningococcal disease and methicillin-resistant
17 staphylococcus aureus appearing and diagnosed after entry
18 into employment; or
19 (13) posttraumatic stress disorder diagnosed
20 by a physician or psychologist that results in physical
21 impairment, primary or secondary mental impairment or death.

22 C. The presumptions created in Subsections B and D
23 of this section may be rebutted by a preponderance of
24 evidence in a court of competent jurisdiction showing that
25 the firefighter engaged in conduct or activities outside of

1 employment that posed a significant risk of contracting or
2 developing a described condition.

3 D. If a firefighter is diagnosed with a heart
4 injury or stroke suffered within twenty-four hours of
5 fighting a fire, while responding to an alarm, while
6 returning from an alarm call, while engaging in supervised
7 physical training or while responding to or performing in a
8 non-fire emergency, the heart injury or stroke is presumed to
9 be proximately caused by employment as a firefighter. The
10 presumption created in this subsection shall not be made if
11 the firefighter's employer does not have a current physical
12 training program and the firefighter does not have a current
13 medical screening examination or review pursuant to the
14 Occupational Health and Safety Act and rules promulgated
15 pursuant to that act allowing participation in that program.

16 E. When any presumptions created in this section
17 do not apply, it shall not preclude a firefighter from
18 demonstrating a causal connection between employment and
19 condition or injury by a preponderance of evidence in a court
20 of competent jurisdiction.

21 F. Medical treatment based on the presumptions
22 created in this section shall be provided by an employer as
23 for a job-related condition or injury unless and until a court
24 of competent jurisdiction determines that the presumption does
25 not apply. If the court determines that the presumption does

1 not apply or that the condition or injury is not job related,
2 the employer's workers' compensation insurance provider shall
3 be reimbursed for health care costs by the medical or health
4 insurance plan or benefit provided for the firefighter by the
5 employer." _____

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