



Gov. Kasich Signs Act Affecting Workers' Compensation for Firefighters

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On January 4, Governor John Kasich signed the Michael Louis Palumbo, Jr. Act into law. This new Act affords even greater protection to firefighters who become disabled in the course of their employment. The Act establishes a rebuttable presumption that a member of the Fire Corps who is disabled as a result of cancer is presumed to have incurred the cancer while performing his or her official duties. This rebuttable presumption exists where (1) the firefighter has been assigned to at least six years of hazardous duty and (2) was exposed to an agent classified by the international agency for research on cancer (or its successor agency) as a Group 1 or 2A carcinogen.

This rebuttable presumption can be overcome in any of the following situations:

- There is evidence that the member incurred the type of cancer being alleged before becoming a member of the department.
- There is evidence that the member's exposure, outside the scope of the member's official duties, to cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer alleged, was probably a significant factor in the cause or progression of the cancer.
- There is evidence that the member was not exposed to an agent classified by the international agency for research on cancer (or its successor agency) as a Group 1 or 2A carcinogen.
- The member is 70 years of age or older.

Further, the presumption does not apply if it has been more than 20 years since the member was last assigned to hazardous duty as a member of a fire department. However, the above rebuttable presumption applies only to an application for a disability benefit

that is filed on or after the effective date of the Act. The effective date is 90 days after Governor Kasich signed the Act, or April 4, 2017.

It is important to note that firefighters have an eight-year statute of limitations (as opposed to the typical two-year statute of limitations for other workers) when applying for benefits related to disability or death from a cardiovascular, pulmonary, or respiratory disease, assuming the exposure occurred from heat, smoke, toxic gases, chemical fumes, or other toxic substances in the course and scope of his or her employment. This new Act potentially allows a firefighter nearly 20 years to file a claim related to disability or death due to cancer. Considering the latency of many cancers, this presents serious problems for fire departments attempting to defend the claim. Given this lengthy period, it will become crucial for fire departments to keep detailed records related to firefighters assigned to hazardous duty and to maintain those records for 20 years after the firefighter's last assignment to hazardous duty, or until the firefighter reaches 70 years of age.

Please contact [Elise Elam](#) or any of Frost Brown Todd's [Workers' Compensation](#) specialists if you have questions about the new law, your programs or policies, or any other matter related to workers' compensation compliance.

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