

SB 181-FN - AS AMENDED BY THE SENATE

03/06/2025 0506s

2025 SESSION

25-1067

05/09

SENATE BILL

181-FN

AN ACT

relative to workers' compensation for firefighters with cancer.

SPONSORS:

Sen. Perkins Kwoka, Dist 21; Sen. Reardon, Dist 15; Sen. Birdsell, Dist 19; Sen. Prentiss, Dist 5; Rep. Bridle, Rock. 29; Rep. Telerski, Hills. 11; Rep. Wilhelm, Hills. 21; Rep. S. Pearson, Rock. 13; Rep. Simpson, Rock. 33

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill extends the presumption that heart or lung disease is occupationally related for firefighters absent clear and convincing evidence to the contrary, and requires payment of workers' compensation benefits within a specified period of time in such cases.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to workers' compensation for firefighters with cancer.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Workers' Compensation; Firefighter and Heart, Lung, or Cancer Disease. Amend RSA 281-
2 A:17 to read as follows:

3 281-A:17 Firefighter and Heart, Lung, or Cancer Disease.

4 I. Notwithstanding the provisions of RSA 281-A:2, XI and XIII, 16 and 27, there shall exist a
5 prima facie presumption that heart or lung disease in a regular, call, volunteer or retired member of
6 a fire department is occupationally related. However:

7 (a) A call or volunteer firefighter shall have the benefit of this prima facie presumption
8 only if there is on record reasonable medical evidence that such firefighter was free of such disease
9 at the beginning of his or her employment. It shall be the duty of the employer of a call or volunteer
10 firefighter to provide that reasonable medical evidence. If the employer fails to do so, the call or
11 volunteer firefighter shall have the benefit of the prima facie presumption regardless of the absence
12 of the reasonable medical evidence.

13 (b) A retired firefighter who agrees to submit to any physical examination requested by
14 his city, town, or precinct shall have the benefit of the prima facie presumption only during the
15 period of time of 5 years from the effective date of such firefighter's retirement.

16 (c) The benefits of RSA 281-A:17, I shall not continue in effect beyond one month after a
17 call, volunteer or permanent firefighter reaches his or her seventieth birthday.

18 II. Notwithstanding the provisions of RSA 281-A:2, XI and XIII, 16 and 27, there shall exist
19 a prima facie presumption that cancer disease in a firefighter, whether a regular, call, volunteer, or
20 retired member of a fire department, is occupationally caused, ***unless clear and convincing***
21 ***evidence is provided which proves that the cancer disease is not occupationally related.***
22 However:

23 (a) A firefighter who has been a firefighter for 10 years shall have the benefit of this
24 prima facie presumption as follows:

25 (1) If a fire department follows the medical examination as outlined by the National
26 Fire Protection Association standard 1582, the firefighter shall provide this report as evidence that
27 the firefighter was free of such disease at the beginning of his or her employment and shall
28 guarantee that he or she has lived a tobacco free lifestyle. The employer of a firefighter shall provide
29 the required reasonable medical evidence to the workers' compensation carrier and to the firefighter
30 to present as part of his or her claim. ***If the employer fails to do so, the firefighter shall have***

1 *the benefit of the prima facie presumption regardless of the absence of the reasonable*
2 *medical evidence.*

3 (2) If the fire department does not follow the medical examination standard, the
4 firefighter shall guarantee that he or she has lived a tobacco free lifestyle and has been a firefighter
5 for 10 years and shall be required to present after action reports filed after fire incidents which
6 demonstrate exposure to the known carcinogens as part of the claim~~[- but shall not have the benefit~~
7 ~~of the prima facie presumption].~~

8 (b) A retired firefighter who has been retired between 6 and 20 years who guarantees
9 that he or she has lived a tobacco free lifestyle and who is receiving a pension subject to RSA 100-A,
10 shall be eligible for medical payments only under this section. If a new claim is being filed, the
11 firefighter shall be responsible for filing applicable data and after action reports if no medical
12 examination report can be provided. A retired firefighter who agrees to submit to any medical
13 examination requested by the employing city, town, or precinct shall have the benefit of the prima
14 facie presumption for a period of 20 years from the effective date of the firefighter's retirement,
15 during which time the firefighter shall be eligible to have his or her medical expenses paid for this
16 period.

17 (c) ~~[No active or retired firefighter shall receive the presumption benefit unless the~~
18 ~~employer voluntarily has in effect a policy that follows the fire standards and training commission~~
19 ~~curriculum requirement for best practices for use and cleaning of equipment.~~

20 ~~(d)]~~ For active, regular firefighters whose employment began prior to January 1, 1997, a
21 medical examination as outlined by the National Fire Protection Association standard 1582 may be
22 reimbursed by the department of safety, division of fire standards and training and emergency
23 medical services, and provided as evidence that the firefighter was free of such disease.

24 ~~[(e)]~~ (d) For the purposes of this section, a person lives a "tobacco free lifestyle" if he or
25 she has not, within the past 6 months, used any tobacco **or vaping** product, including cigarettes,
26 cigars, chewing tobacco, snuff, or pipe tobacco 4 or more times in a week, except in the case of
27 religious or ceremonial use of tobacco, such as by Alaska natives or Native Americans.

28 (e) *Firefighters covered under this section shall have their claims paid within*
29 *21 days of notice to the carrier and claims shall continue to be paid until such time that*
30 *clear and convincing evidence is provided to prove that the cancer disease is not*
31 *occupationally related.*

32 2 Effective Date. This act shall take effect 60 days after its passage.

SB 181-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2025-0506s)

AN ACT relative to workers' compensation for firefighters with cancer.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	Indeterminable		
Revenue Fund(s)	General Fund			
Expenditures*	\$0	Indeterminable		
Funding Source(s)	Various Agency Transfers			
Appropriations*	\$0	\$0	\$0	\$0
Funding Source(s)	None			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	Indeterminable		
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable		

METHODOLOGY:

This bill expands the presumption that heart or lung disease is occupationally related for firefighters unless there is clear and convincing evidence to the contrary. It also mandates the payment of workers' compensation benefits within a specified time frame for such cases.

The Department of Administrative Services indicates the state workers' compensation program could face significant costs due to the high expenses associated with cancer treatment. The projected cost for a complete course of cancer treatment ranges from \$500,000 to over \$2,500,000+. In addition to these treatment costs, the program would also need to cover workers' compensation indemnity benefits, which can further increase expenses.

Moreover, there is a possibility that some medical costs, which are typically covered under the state's health benefit plan, might be transferred to the workers' compensation program. This

shift could occur when treatment for work-related illnesses or injuries, like cancer, falls under the workers' compensation coverage instead of the standard health benefits.

It's important to note that workers' compensation reimbursement rates to health care providers are generally higher compared to the rates under managed health plans, such as those provided by the state. This difference in reimbursement rates can lead to increased costs for the workers' compensation program, as it would be paying more for the same medical services than the state's health benefit plan would.

The Department of Labor states the bill has the potential to increase expenditures at the state, county, or local levels due to its broader application of the presumption, heightened burden on claim challenges, and requirement to pay claims despite denial. However, quantifying these costs with precision remains challenging. Furthermore, some employers might violate the stated requirements, possibly resulting in civil penalties. Nonetheless, the revenue from such penalties is expected to be minimal.

The New Hampshire Municipal Association indicates that this could lead to a rise in workers' compensation claims, which would likely result in higher expenditures. However, there is currently no data available to estimate the potential impact.

AGENCIES CONTACTED:

Department of Administrative Services, Department of Labor, and New Hampshire Municipal Association