

The House Committee on Industry and Labor offers the following substitute to HB 216:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 8 of Chapter 9 of Title 34 of the Official Code of Georgia  
2 Annotated, relating to general provisions relative to compensation for occupational diseases,  
3 so as to define certain terms; to provide for a rebuttable presumption that certain medical  
4 conditions suffered by firefighters are occupational diseases; to provide for applicability; to  
5 provide for benefits; to provide for related matters; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 8 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated,  
10 relating to general provisions relative to compensation for occupational diseases, is amended  
11 by adding a new Code section to read as follows:

12 "34-9-293.

13 (a) As used in this Code section, the term:

14 (1) 'Disability' means a condition which renders a firefighter totally and permanently  
15 physically unable to perform substantially all of the duties of that position to which he  
16 or she was regularly assigned when the disability originated, and such firefighter, as a  
17 result of such disability, is separated from his or her employment or appointment as a  
18 firefighter.

19 (2) 'Employer' means the state or any county or municipal corporation.

20 (3) 'Firefighter' means an individual who:

21 (A) Is a permanent, compensated employee of a fire department and who:

22 (i) Either:

23 (I) Holds a current certificate of completion of a basic training course issued  
24 pursuant to Article 1 of Chapter 4 of Title 25; or

25 (II) Is within the time frame specified pursuant to Code Section 25-4-9 for  
 26 successful completion of a basic training course for issuance of a certification of  
 27 completion pursuant to Article 1 of Chapter 4 of Title 25;

28 (ii) Has, as incident to his or her position of employment, the duty of, and actually  
 29 performs the function of, preventing or suppressing fires; and

30 (iii) Works or is employed to work at least 1,040 hours per year; or

31 (B) Is not employed for compensation but appointed and regularly enrolled to serve as  
 32 a volunteer with a fire department which satisfies the requirements specified in  
 33 subparagraph (a)(1)(D) of Code Section 25-3-23 and who either:

34 (i) Holds a current certificate of completion of a basic training course issued pursuant  
 35 to Article 1 of Chapter 4 of Title 25; or

36 (ii) Is within the time frame specified pursuant to Code Section 25-4-9 for successful  
 37 completion of a basic training course for issuance of a certification of completion  
 38 pursuant to Article 1 of Chapter 4 of Title 25.

39 (4) 'Firefighters' occupational disease' means any condition or impairment of health  
 40 caused by any of the following:

41 (A) Respiratory disease;

42 (B) Cancer which manifests itself in a firefighter during the period in which the  
 43 firefighter is in the service of the employer, provided that the firefighter demonstrates  
 44 that he or she was exposed to a known carcinogen which is reasonably linked to the  
 45 cancer arising out of and in the course of his or her employment or appointment with  
 46 the employer;

47 (C) AIDS which manifests itself in a firefighter during the period in which the  
 48 firefighter is in the service of the employer, provided that the firefighter demonstrates  
 49 that he or she was exposed to AIDS arising out of and in the course of his or her  
 50 employment or appointment with the employer; and

51 (D) Hepatitis which manifests itself in a firefighter during the period in which the  
 52 firefighter is in the service of the employer, provided that the firefighter demonstrates  
 53 that he or she was exposed to hepatitis arising out of and in the course of his or her  
 54 employment or appointment with the employer.

55 (b) For purposes of this article, there shall be a rebuttable presumption that any firefighters'  
 56 occupational disease arose out of and in the course of service as a firefighter; provided,  
 57 however, that if the disabled firefighter used any tobacco product within five years of the  
 58 onset of a disability caused by respiratory disease, or if the condition existed at the time he  
 59 or she first became employed or was first appointed, there shall be no such rebuttable  
 60 presumption.

61 (c) This Code section shall apply to any firefighter who, upon entering the service of the  
62 employer, has successfully passed a physical examination which failed to reveal any  
63 evidence of a firefighters' occupational disease and who has completed at least three years  
64 of service as a firefighter.

65 (d) If a firefighter subject to the provisions of this Code section suffers a disability as a  
66 result of a firefighters' occupational disease, his or her disability or death resulting from a  
67 firefighters' occupational disease shall be compensable as the occurrence of an injury by  
68 accident; and the firefighter or, in the case of his or her death, the firefighter's dependents  
69 shall be entitled to the same compensation provided for occupational diseases in Code  
70 Sections 34-9-282 through 34-9-285 of this article.

71 (e) An employer shall be liable for compensation pursuant to this Code section if a claim  
72 for a disability is filed within one year after the date the firefighter knew or, in the exercise  
73 of reasonable diligence, should have known of the disability and its relationship to the  
74 firefighter's employment or appointment; provided, however, that in no event shall the  
75 claim for disability be filed in excess of seven years after the last injurious exposure to the  
76 hazard of such disease in such employment or appointment. In cases of death where the  
77 cause of action was not barred during the firefighter's life, the claim must be filed within  
78 one year of the date of death.

79 (f) The filing of a claim for disability or the receipt of compensation for a claim for  
80 disability pursuant to this Code section shall not bar an application for indemnification  
81 under the Georgia State Indemnification Fund created pursuant to Code Section 45-9-84.1."

82 **SECTION 2.**

83 All laws and parts of laws in conflict with this Act are repealed.