

ASSEMBLY BILL

No. 2577

Introduced by Assembly Member Chu

February 19, 2016

An act to add Section 3212.13 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2577, as introduced, Chu. Workers' Compensation: respiratory illness: presumption.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law provides that in the case of active firefighting members of certain fire departments and in the case of certain peace officers, a compensable injury includes cancer that develops or manifests itself during the period when the firefighter or peace officer demonstrates that he or she was exposed while in the service of the public agency to a known carcinogen, as defined. Existing law establishes a presumption that the cancer in these cases arose out of, and in the course of, employment, unless the presumption is controverted, as specified.

This bill would provide that in the case of specified active firefighting members, peace officers, and others, a respiratory illness or disease, including, among other things, occupational asthma and chronic obstructive pulmonary disease, is presumed to arise out of and in the course of employment, unless the presumption is controverted, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3212.13 is added to the Labor Code, to
2 read:
3 3212.13. (a) This section applies to all of the following:
4 (1) Active firefighting members, whether volunteers, partly
5 paid, or fully paid, of all of the following fire departments:
6 (A) A fire department of a city, county, city and county, district,
7 or other public, private, or municipal corporation or political
8 subdivision.
9 (B) A fire department of the University of California and the
10 California State University.
11 (C) The Department of Forestry and Fire Protection.
12 (D) A county forestry or firefighting department or unit.
13 (2) Active firefighting members of a fire department that serves
14 a United States Department of Defense installation and who are
15 certified by the Department of Defense as meeting its standards
16 for firefighters.
17 (3) Active firefighting members of a fire department that serves
18 a National Aeronautics and Space Administration installation and
19 who adhere to training standards established in accordance with
20 Article 4 (commencing with Section 13155) of Chapter 1 of Part
21 2 of Division 12 of the Health and Safety Code.
22 (4) Peace officers, as defined in Section 830.1, subdivision (a)
23 of Section 830.2, and subdivisions (a) and (b) of Section 830.37,
24 of the Penal Code, who are primarily engaged in active law
25 enforcement activities.
26 (5) (A) Fire and rescue services coordinators who work for the
27 Office of Emergency Services.
28 (B) For purposes of this paragraph, “fire and rescue services
29 coordinators” means coordinators with any of the following job
30 classifications: coordinator, senior coordinator, or chief
31 coordinator.
32 (b) The term “injury” as used in this section includes respiratory
33 illnesses or diseases, including, but not limited to, occupational
34 asthma, chronic obstructive pulmonary disease, chronic bronchitis,
35 emphysema, asbestos-related lung diseases, and any other

1 lung-related illnesses and diseases caused by inhalation exposure
2 from employment activities.

3 (c) The compensation that is awarded for respiratory illnesses
4 or diseases shall include full hospital, surgical, medical treatment,
5 disability indemnity, and death benefits, as provided by this
6 division.

7 (d) The respiratory illness or disease so developing or
8 manifesting itself in these cases shall be presumed to arise out of
9 and in the course of the employment. This presumption is
10 disputable and may be controverted by evidence that the primary
11 cause of the respiratory illness or disease has been established and
12 that the contaminant to which the member has demonstrated
13 exposure is not reasonably linked to the respiratory illness or
14 disease. Unless so controverted, the appeals board is bound to find
15 in accordance with the presumption. This presumption shall be
16 extended to a member following termination of service for a period
17 of three calendar months for each full year of the requisite service,
18 but not to exceed 120 months in any circumstance, commencing
19 with the last date actually worked in the specified capacity.

20 (e) This section shall be applied to claims for benefits filed or
21 pending on or after January 1, 2014, including, but not limited to,
22 claims for benefits filed on or after that date that have previously
23 been denied, or that are being appealed following denial.

24 (f) This section shall be known, and may be cited, as the
25 Firefighter’s Lung Presumption Act of 2016.