

**HOUSE BILL NO. 1204**

Introduced by

Representatives Kempenich, S. Meyer

1 A BILL for an Act to amend and reenact sections 65-01-15 and 65-01-15.1 of the North Dakota  
2 Century Code, relating to a workers' compensation presumption of compensability for volunteer  
3 firefighters.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **65-01-15. Yearly documentation required for firefighter and law enforcement**  
8 **officer.** Except for benefits for an exposure to a bloodborne pathogen as defined by section  
9 23-07.5-01 occurring in the course of employment or while volunteering as a firefighter, a  
10 full-time paid ~~firefighter~~ or law enforcement officer or paid or volunteer firefighter who uses  
11 tobacco is not eligible for the benefits provided under section 65-01-15.1, unless the full-time  
12 paid ~~firefighter~~ or law enforcement officer or paid or volunteer firefighter provides yearly  
13 documentation from a physician which indicates that the full-time paid ~~firefighter~~ or law  
14 enforcement officer or paid or volunteer firefighter has not used tobacco for the preceding two  
15 years.

16 **SECTION 2. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **65-01-15.1. Presumption of compensability for certain conditions of ~~full-time paid~~**  
19 **firefighters and law enforcement officers.**

20 1. Any condition or impairment of health of a full-time paid ~~firefighter~~ or law  
21 enforcement officer or paid or volunteer firefighter caused by lung or respiratory  
22 disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as  
23 defined by section 23-07.5-01 occurring in the course of employment or activation  
24 as a volunteer, or occupational cancer in a ~~full-time paid~~ firefighter, resulting in total

1 or partial disability or death is presumed to have been suffered in the line of duty.  
2 The condition or impairment of health may not be attributed to any disease existing  
3 before that total or partial disability or death unless the contrary is shown by  
4 competent evidence.

5 2. As used in this section, an occupational cancer is one which arises out of  
6 ~~employment as a full-time paid~~ the activities performed as a firefighter and is due  
7 to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or  
8 chemical substances while in the performance of active duty as a ~~full-time paid~~  
9 firefighter.

10 3. A full-time paid ~~firefighter or law enforcement officer or paid or volunteer firefighter~~  
11 is not eligible for the benefit provided under this section unless that ~~full-time paid~~  
12 firefighter or law enforcement officer has completed five years of continuous  
13 service and has successfully passed a medical examination ~~which~~ that fails to  
14 reveal any evidence of such a condition. An employer or a volunteer fire  
15 department shall require a medical examination upon employment or activation as  
16 a volunteer, for any employee or volunteer subject to this section. After the initial  
17 medical examination, an employer or a volunteer fire department shall require at  
18 least a periodic medical examination as follows: for one to ten years of service,  
19 every five years; for eleven to twenty years of service, every three years; and for  
20 twenty-one or more years of service, every year. The periodic medical  
21 examination, at a minimum, must consist of a general medical history of the  
22 individual and the individual's family; an occupational history including contact with  
23 and an exposure to hazardous materials, toxic products, contagious and infectious  
24 diseases, and to physical hazards; a physical examination including measurement  
25 of height, weight, and blood pressure; and laboratory and diagnostic procedures  
26 including a nonfasting total blood cholesterol test and papanicolaou smear for  
27 women. If the medical examination reveals that an employee or volunteer falls into  
28 a recognized risk group, the employee or volunteer must be referred to a qualified  
29 health professional for future medical examination. This section does not affect an  
30 employee's or volunteer's responsibility to document that the employee or

- 1            volunteer has not used tobacco as required under section 65-01-15. Results of the  
2            examination must be used in rebuttal to a presumption afforded under this section.
- 3            4. For purposes of this section, "law enforcement officer" means a person who is  
4            licensed to perform peace officer law enforcement duties under chapter 12-63 and  
5            is employed full time by the bureau of criminal investigation, the game and fish  
6            department, the state highway patrol, the parole and probation division, the North  
7            Dakota state university police department, the North Dakota state college of  
8            science police department, the university of North Dakota police department, a  
9            county sheriff's department, or a city police department. The presumption does not  
10           include a condition or impairment of health of a full-time paid ~~firefighter~~ or law  
11           enforcement officer or paid or volunteer firefighter, who has been employed or who  
12           has been volunteering for ten years or less, if the condition or impairment is  
13           diagnosed more than two years after the employment or volunteering as a full-time  
14           ~~paid firefighter~~ or law enforcement officer or paid or volunteer firefighter ends.
- 15           5. The presumption also does not include a condition or impairment of health of a  
16           full-time paid ~~firefighter~~ or law enforcement officer or paid or volunteer firefighter,  
17           who has been employed or who has been volunteering more than ten years, if the  
18           condition or impairment is diagnosed more than five years after the employment as  
19           a full-time paid ~~firefighter~~ or law enforcement officer or the employment or  
20           activation of a paid or volunteer firefighter ends.
- 21           6. If a volunteer firefighter does not comply with this section, compensability is  
22           determined under chapter 65-06.