

**HOUSE BILL NO. 1279**

Introduced by

Representatives Roers Jones, Heinert, Jonas, Louser, Schauer, Thomas

Senators Barta, Larson, Lee

1 A BILL for an Act to amend and reenact section 65-01-15.1 of the North Dakota Century Code,  
2 relating to the presumption of compensability for firefighters and law enforcement officers.

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

4 **SECTION 1. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **65-01-15.1. Presumption of compensability for certain conditions of full-time paid**  
7 **firefighters and law enforcement officers.**

8 1. Any condition or impairment of health of a full-time paid firefighter or law enforcement  
9 officer caused by lung or respiratory disease, hypertension, heart disease, or an  
10 exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the  
11 course of employment, or occupational cancer in a full-time paid firefighter, is  
12 presumed to have been suffered in the line of duty. The presumption may be rebutted  
13 by clear and convincing evidence the condition or impairment is not work-related.

14 2. As used in this section, an occupational cancer is one which arises out of employment  
15 as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or  
16 carcinogenic, poisonous, toxic, or chemical substances while in the performance of  
17 active duty as a full-time paid firefighter.

18 3. a. A full-time paid firefighter or law enforcement officer is not eligible for the benefit  
19 provided under this section unless that full-time paid firefighter or law  
20 enforcement officer has ~~completed five years of continuous service and has~~  
21 successfully passed a medical examination which fails to reveal any evidence of  
22 such a condition. An employer shall ~~require~~ provide at no expense, a medical  
23 examination upon employment, for any employee subject to this section.

- 1           **b.** After the initial medical examination, an employer shall ~~require~~provide at no  
2           expense, at least a periodic medical examination as follows: for one to ten years  
3           of service, every five years; for eleven to twenty years of service, every three  
4           years; and for twenty-one or more years of service, every year. The periodic  
5           medical examination, at a minimum, must consist of a general medical history of  
6           the individual and the individual's family; an occupational history including contact  
7           with and an exposure to hazardous materials, toxic products, contagious and  
8           infectious diseases, and to physical hazards; a physical examination including  
9           measurement of height, weight, and blood pressure; and laboratory and  
10          diagnostic procedures ~~including a nonfasting total blood cholesterol test~~indicating  
11          cardiovascular health to a reasonable degree of medical certainty.
- 12          **c.** If the medical examination reveals that an employee falls into a recognized risk  
13          group, the employee must be referred to a qualified health professional for future  
14          medical examination.
- 15          **d.** If a medical examination produces a false positive result for a condition covered  
16          under this section, the organization shall consider the condition to be a  
17          compensable injury. In the case of a false positive result, neither the coverage of  
18          the condition nor the period of disability may exceed fifty-six days.
- 19          **e.** This section does not affect an employee's responsibility to document that the  
20          employee has not used tobacco as required under section 65-01-15. Results of  
21          the examination must be used in rebuttal to a presumption afforded under this  
22          section.
- 23          4. For purposes of this section, "law enforcement officer" means ~~a person~~an individual  
24          who is licensed to perform peace officer law enforcement duties under chapter 12-63  
25          and is employed full time by the bureau of criminal investigation, the game and fish  
26          department, the state highway patrol, the parole and probation division, the North  
27          Dakota state university police department, the North Dakota state college of science  
28          police department, the university of North Dakota police department, a county sheriff's  
29          department, a city police department, or the parks and recreation department pursuant  
30          to section 55-08-04.

- 1           5.   The presumption does not include a condition or impairment of health of a full-time  
2           paid firefighter or law enforcement officer, who has been employed for ten years or  
3           less, if the condition or impairment is diagnosed more than two years after the  
4           employment as a full-time paid firefighter or law enforcement officer ends. The  
5           presumption also does not include a condition or impairment of health of a full-time  
6           paid firefighter or law enforcement officer, who has been employed more than ten  
7           years, if the condition or impairment is diagnosed more than five years after the  
8           employment as a full-time paid firefighter or law enforcement officer ends.