

FIRST REGULAR SESSION

# SENATE BILL NO. 238

96TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS SCHMITT, McKENNA, NIEVES, GOODMAN, KEHOE, LAMPING,  
CUNNINGHAM, WRIGHT-JONES, ENGLER, LEMBKE, RICHARD, CHAPPELLE-NADAL,  
CALLAHAN, PARSON, JUSTUS AND SCHAEFER.

Read 1st time February 9, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1042S.03I

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## AN ACT

To repeal sections 87.005 and 87.006, RSMo, and to enact in lieu thereof two new sections relating to diseases presumed incurred in the line of duty by firefighters.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 87.005 and 87.006, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 87.005 and 87.006, to  
3 read as follows:

87.005. 1. Notwithstanding the provisions of any law to the contrary,  
2 after five years' service, any condition of impairment of health caused by any  
3 **infectious disease**, disease of the lungs or respiratory tract, hypertension, or  
4 disease of the heart resulting in total or partial disability or death to a uniformed  
5 member of a paid fire department, who successfully passed a physical  
6 examination within five years prior to the time a claim is made for such disability  
7 or death, which examination failed to reveal any evidence of such condition, shall  
8 be presumed to have been suffered in line of duty, unless the contrary be shown  
9 by competent evidence.

10 2. This section shall apply only to the provisions of chapter 87, RSMo  
11 1959.

12 3. **As used in this section, the term "infectious disease" means the**  
13 **human immunodeficiency virus, acquired immunodeficiency syndrome,**  
14 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**  
15 **diphtheria, meningococcal meningitis, methicillin-resistant**  
16 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
17 **acute respiratory syndrome.**

87.006. 1. Notwithstanding the provisions of any law to the contrary, and

2 only for the purpose of computing retirement benefits provided by an established  
3 retirement plan, after five years' service, any condition of impairment of health  
4 caused by any **infectious disease**, disease of the lungs or respiratory tract,  
5 hypotension, hypertension, or disease of the heart resulting in total or partial  
6 disability or death to a uniformed member of a paid fire department, who  
7 successfully passed a physical examination within five years prior to the time a  
8 claim is made for such disability or death, which examination failed to reveal any  
9 evidence of such condition, shall be presumed to have been suffered in the line  
10 of duty, unless the contrary be shown by competent evidence.

11           2. Any condition of cancer affecting the skin or the central nervous,  
12 lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular,  
13 genitourinary, liver or prostate systems, as well as any condition of cancer which  
14 may result from exposure to heat or radiation or to a known or suspected  
15 carcinogen as determined by the International Agency for Research on Cancer,  
16 which results in the total or partial disability or death to a uniformed member of  
17 a paid fire department who successfully passed a physical examination within five  
18 years prior to the time a claim is made for disability or death, which examination  
19 failed to reveal any evidence of such condition, shall be presumed to have been  
20 suffered in the line of duty unless the contrary be shown by competent evidence  
21 and it can be proven to a reasonable degree of medical certainty that the  
22 condition did not result nor was contributed to by the voluntary use of tobacco.

23           3. This section shall apply to paid members of all fire departments of all  
24 counties, cities, towns, fire districts, and other governmental units.

25           4. **As used in this section, the term "infectious disease" means the**  
26 **human immunodeficiency virus, acquired immunodeficiency syndrome,**  
27 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**  
28 **diphtheria, meningococcal meningitis, methicillin-resistant**  
29 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
30 **acute respiratory syndrome.**

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