



## 2007 ASSEMBLY BILL 275

April 23, 2007 - Introduced by Representatives BIES, ALBERS, GRONEMUS, HAHN, HRAYCHUCK, LOTHIAN, MOLEPSKE, MUSSER, OWENS, A. OTT, PETROWSKI, SHERIDAN, SHERMAN, TOWNSEND and SINICKI, cosponsored by Senators LASSA, HANSEN, LEHMAN, ROESSLER and SCHULTZ. Referred to Committee on Labor and Industry.

1     **AN ACT** *to amend* 61.66 (2) and 111.35 (4); and *to create* 102.03 (6) of the  
2             statutes; **relating to:** a presumption for purposes of the worker's compensation  
3             law that the injury or death of a fire fighter due to heart or respiratory  
4             impairment or disease or due to a cerebrovascular accident arose out of the fire  
5             fighter's employment.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, an employer is liable for worker's compensation when an employee sustains harm caused by an accident or disease (injury) while performing services growing out of and incidental to his or her employment and the accident or disease causing the injury arises out of the employee's employment.

This bill creates a presumption that the injury or death of a fire fighter due to heart or respiratory impairment or disease or due to a cerebrovascular accident (commonly referred to as a stroke) arose out of the fire fighter's employment and, therefore, is covered under the worker's compensation law if: 1) at the time of death or the claim for compensation the deceased or injured fire fighter had served a total of five years as a fire fighter; and 2) a qualifying medical examination given prior to the commencement of employment as a fire fighter showed no evidence of heart, respiratory, or cerebrovascular impairment or disease.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 61.66 (2) of the statutes is amended to read:

2           61.66 (2) The governing body of a village acting under sub. (1) may designate  
3 any person required to perform police protection and fire protection duties under sub.  
4 (1) as primarily a police officer or fire fighter for purposes of s. 102.03 (6), 891.45, or  
5 891.455.

6           **SECTION 2.** 102.03 (6) of the statutes is created to read:

7           102.03 (6) In any case in which there is a finding that the injury or death of an  
8 employee employed as a fire fighter was caused by heart or respiratory impairment  
9 or disease or by a cerebrovascular accident, that finding shall be presumptive  
10 evidence that the heart or respiratory impairment or disease or cerebrovascular  
11 accident arose out of the employee's employment as a fire fighter if all of the following  
12 apply:

13           (a) At the time of death or the claim for compensation the deceased or injured  
14 fire fighter had served a total of 5 years as a fire fighter.

15           (b) A qualifying medical examination given prior to the commencement of  
16 employment as a fire fighter showed no evidence of heart, respiratory, or  
17 cerebrovascular impairment or disease.

18           **SECTION 3.** 111.35 (4) of the statutes is amended to read:

19           111.35 (4) Notwithstanding s. 111.322, it is not employment discrimination  
20 because of use of a lawful product off the employer's premises during nonworking  
21 hours to refuse to employ an applicant if the applicant's use of a lawful product

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1 consists of smoking tobacco and the employment is as a fire fighter covered under s.

2 102.03 (6), 891.45, or 891.455.

3 (END)