

AN ACT relating to firefighters.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

➔Section 1. KRS 95A.262 is amended to read as follows:

- (1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health and Family Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.
- (2) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars (\$8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars (\$8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars (\$500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. Administrative regulations for

determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance for volunteer firefighters.~~and~~ A portion of the funds provided for above shall be used to purchase workers' compensation insurance for all paid and volunteer firefighters employed by or volunteering for fire departments organized under KRS Chapter 67, 67A, 67C, 75, 95, or 273 and recognized by the Commission on Fire Protection Personnel Standards and Education.~~and~~ The remaining funds shall be distributed as set forth in this section.

- (3) There shall be allotted two hundred thousand dollars (\$200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or

unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars (\$200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

- (4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.
- (5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.
- (6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.
- (7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.
- (8) The commission shall withhold from the general distribution of funds under

subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

- (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;
- (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;
- (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;
- (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;
- (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;
- (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department;  
and
- (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been

unsuccessful in the effort.

- (10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars (\$10,000) or the actual amount of the loss, whichever is less.
- (11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.
- (12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.
- (13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.
- (14) There shall be allotted each year of the 1992-93 biennium one million dollars (\$1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars (\$1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The

proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

- (15) For fiscal year 2004-2005 and each fiscal year thereafter, there is allotted one million dollars (\$1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.
- (16) If funding is available from the fund established in KRS 95A.220, the Commission on Fire Protection Personnel Standards and Education may implement the following:
  - (a) A program to prepare emergency service personnel for handling potential man-made and non-man-made threats. The commission shall work in conjunction with the state fire marshal and other appropriate agencies and associations to identify and make maps of gas transmission and hazardous liquids pipelines in the state;
  - (b) A program to provide and maintain a mobile test facility in each training region established by the Commission on Fire Protection Personnel Standards and Education with equipment to administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a firefighter's ability to perform the physical requirements necessary to be an effective and safe firefighter;
  - (c) A program to provide defensive driving training tactics to firefighters. The commission shall purchase, instruct in the use of, and maintain mobile equipment in each of the training regions, and fund expenses related to equipment replacement;

- (d) A program to annually evaluate equipment adequacy and to provide for annual physical examinations for instructors, adequate protective clothing and personal equipment to meet NFPA guidelines, and to establish procedures for replacing this equipment as needed;
- (e) A program to establish a rotational expansion and replacement program for mobile fleet equipment currently used for training and recertification of fire departments;
- (f) A program to expand and update current EMS, first responder, EMT, and paramedic training and certification instruction; and
- (g) A program to purchase thermal vision devices to comply with the provisions of KRS 95A.400 to 95A.440.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*(1) This section applies to all firefighters employed by or volunteering at fire departments organized under KRS Chapter 67, 67A, 67C, 75, 95, or 273 and recognized by the Commission on Fire Protection Personnel Standards and Education.*

*(2) Cancer, resulting in either temporary or permanent disability or death, shall be presumed to be an occupational disease as defined in KRS 342.0011 and compensable as such under KRS Chapter 342 if the following conditions exist:*

*(a) A person, who has been employed as a firefighter or served as a volunteer firefighter for five (5) or more years for this Commonwealth, develops one (1) of the cancers listed in subsection (3) of this section and has not used tobacco products for a period of ten (10) years prior to the diagnosis of cancer; and*

*(b) It is demonstrated that the firefighter was exposed while in the course of firefighting to a known carcinogen as defined by the International Agency*

for Research on Cancer or the National Toxicology Program, and that the carcinogen is reasonably associated with the disabling cancer.

(3) This section shall apply to the following disabling cancers:

- (a) Bladder cancer;
- (b) Brain cancer;
- (c) Colon cancer;
- (d) Non-Hodgkin's lymphoma;
- (e) Kidney cancer;
- (f) Liver cancer;
- (g) Lymphatic or haematopoietic cancer;
- (h) Prostate cancer; and
- (i) Testicular cancer.

(4) Compensation for a disabling cancer awarded pursuant to this section and KRS Chapter 342 to the person who, for five (5) years or more, has been employed or volunteered in this Commonwealth as a firefighter, working in the interest of the health and safety of the inhabitants of the Commonwealth, or to his or her dependents, shall include the following:

- (a) Full reimbursement for all medical expenses in accordance with the schedule of fees and charges established pursuant to KRS Chapter 342 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to KRS Chapter 342, the amount that is allowed for the treatment or other services under that contract; and
- (b) The compensation provided in KRS Chapter 342 for the disability or death.

(5) (a) The disabling cancer is presumed to have developed or manifested itself out of and in the course of employment or voluntary service of any person who, for five (5) years or more, has been employed or volunteered in this Commonwealth as a firefighter, working in the interest of the health and



safety of the inhabitants of the Commonwealth.

- (b) This rebuttable presumption shall apply to a disabling cancer, as set forth in subsection (3) of this section, diagnosed during a firefighter's employment or service as a volunteer firefighter as specified in this section or after the termination of the person's employment or voluntary service if the diagnosis occurs within a period which begins with the last date the firefighter actually worked or volunteered in the qualifying capacity and extends for a period calculated by multiplying three (3) months by the number of years of the firefighter's employment or voluntary service, but the period shall not exceed sixty (60) months.
- (c) This rebuttable presumption shall control the awarding of benefits pursuant to this section unless the presumption is rebutted by a preponderance of the evidence.
- (d) The rebuttable presumption shall only apply to a firefighter who does not currently use tobacco products and who did not use tobacco products during the ten (10) years immediately preceding the firefighter's diagnosis of cancer.
- (6) The rebuttable presumption established in this section shall exist only during periods in which workers' compensation coverage required to be purchased under subsection (2) of Section 1 of this Act is in force. During any time period in which that coverage is not provided because the Commission on Fire Protection Personnel Standards and Education has not purchased and paid the premium for the workers' compensation insurance, the rebuttable presumption shall not exist.
- (7) Nothing in this section creates an irrebuttable presumption.

→SECTION 3. This Act takes effect July 1, 2016.