

111TH CONGRESS  
1ST SESSION

# H. R. 948

To amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2009

Mrs. CAPPS (for herself, Mr. PLATTS, Mr. GEORGE MILLER of California, Ms. MATSUI, Ms. SUTTON, Mr. LEVIN, Mr. MORAN of Virginia, Mr. BLUMENAUER, Mr. VAN HOLLEN, Mr. HARE, Mr. CARNEY, Mr. SHERMAN, Ms. EDWARDS of Maryland, Mr. GRIJALVA, Mr. KENNEDY, Mr. ROTHMAN of New Jersey, Mr. HINCHEY, Ms. ROS-LEHTINEN, Ms. WOOLSEY, Mr. LOBIONDO, Mr. SCHIFF, Mrs. MALONEY, Mr. COURTNEY, Mr. SHULER, Ms. HIRONO, Mr. MCGOVERN, Mr. HASTINGS of Florida, Mr. MURTHA, Mr. STUPAK, Mr. MCHUGH, Mr. FILNER, Mrs. MILLER of Michigan, Mr. CONYERS, Mr. MICHAUD, Mrs. EMERSON, Mr. BRADY of Pennsylvania, Mr. SMITH of New Jersey, Mr. ROSS, Mr. MILLER of North Carolina, Mr. McDERMOTT, Mr. RAHALL, Mr. WOLF, Mr. CONNOLLY of Virginia, Mr. SESTAK, Mr. TERRY, Mr. BISHOP of New York, Mr. CARNAHAN, Mr. ELLISON, Ms. SCHAKOWSKY, Mr. WITTMAN, Mr. SCOTT of Georgia, Mr. LYNCH, Ms. ZOE LOFGREN of California, Mr. SARBANES, Mr. CARSON of Indiana, Mr. FARR, Mr. CUMMINGS, Mr. McMAHON, Mr. LEWIS of Georgia, Mr. GUTIERREZ, Mr. MARKEY of Massachusetts, Mr. HOLDEN, Mr. DOYLE, Mr. McINTYRE, Ms. PINGREE of Maine, Mr. GORDON of Tennessee, Mr. BOSWELL, Mr. CLAY, Mr. LUJÁN, Mr. HOLT, Ms. DEGETTE, Mr. NYE, Mr. BOUCHER, Mr. TIM MURPHY of Pennsylvania, Mr. TOWNS, Mr. BERMAN, Ms. RICHARDSON, Ms. SHEA-PORTER, Mr. MCCOTTER, Mr. MURPHY of Connecticut, Mr. GONZALEZ, Mr. POE of Texas, Mr. ARCURI, Mr. COSTELLO, Mr. ANDREWS, Mr. BACA, and Mr. KAGEN) introduced the following bill; which was referred to the Committee on Education and Labor

# A BILL

To amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Firefighters  
 5 Fairness Act of 2009”.

6 **SEC. 2. CERTAIN DISEASES PRESUMED TO BE WORK-RE-**  
 7 **LATED CAUSE OF DISABILITY OR DEATH FOR**  
 8 **FEDERAL EMPLOYEES IN FIRE PROTECTION**  
 9 **ACTIVITIES.**

10 (a) DEFINITION.—Section 8101 of title 5, United  
 11 States Code, is amended by striking “and” at the end of  
 12 paragraph (19), by striking the period at the end of para-  
 13 graph (20) and inserting “; and”, and by adding at the  
 14 end the following:

15 “(21) ‘employee in fire protection activities’  
 16 means a firefighter, paramedic, emergency medical  
 17 technician, rescue worker, ambulance personnel, or  
 18 hazardous material worker, who—

19 “(A) is trained in fire suppression;

1           “(B) has the legal authority and responsi-  
2           bility to engage in fire suppression;

3           “(C) is engaged in the prevention, control,  
4           and extinguishment of fires or response to  
5           emergency situations where life, property, or  
6           the environment is at risk; and

7           “(D) performs such activities as a primary  
8           responsibility of his or her job.”.

9           (b) PRESUMPTION RELATING TO EMPLOYEES IN  
10          FIRE PROTECTION ACTIVITIES.—Section 8102 of title 5,  
11          United States Code, is amended by adding at the end the  
12          following:

13           “(c)(1) With regard to an employee in fire protection  
14          activities, a disease specified in paragraph (2) shall be pre-  
15          sumed to be proximately caused by the employment of  
16          such employee, subject to the length of service require-  
17          ments specified. The disability or death of an employee  
18          in fire protection activities due to such a disease shall be  
19          presumed to result from personal injury sustained while  
20          in the performance of such employee’s duty. Such pre-  
21          sumptions may be rebutted by a preponderance of the evi-  
22          dence.

23           “(2) The following diseases shall be presumed to be  
24          proximately caused by the employment of the employee:

1           “(A) If the employee has been employed for a  
2       minimum of 5 years:

3           “(i) Heart disease.

4           “(ii) Lung disease.

5           “(iii) The following cancers:

6           “(I) Brain cancer.

7           “(II) Cancer of the blood or lymphatic  
8       systems.

9           “(III) Leukemia.

10          “(IV) Lymphoma (except Hodgkin’s  
11       disease).

12          “(V) Multiple myeloma.

13          “(VI) Bladder cancer.

14          “(VII) Kidney cancer.

15          “(VIII) Testicular cancer.

16          “(IX) Cancer of the digestive system.

17          “(X) Colon cancer.

18          “(XI) Liver cancer.

19          “(XII) Skin cancer.

20          “(XIII) Lung cancer.

21          “(iv) Any other cancer the contraction of  
22       which the Secretary of Labor determines to be  
23       related to the hazards to which an employee in  
24       fire protection activities may be subject.

1           “(B) Regardless of the length of time an em-  
2       ployee has been employed, any uncommon infectious  
3       disease, including but not limited to tuberculosis,  
4       hepatitis A, B, or C, and the human immuno-  
5       deficiency virus (HIV), the contraction of which the  
6       Secretary of Labor determines to be related to the  
7       hazards to which an employee in fire protection ac-  
8       tivities may be subject.”.

9       (c) REPORT.—Not later than 10 years after the date  
10      of enactment of this Act, the National Institute of Occupa-  
11      tional Safety and Health in the Centers for Disease Con-  
12      trol and Prevention shall examine the implementation of  
13      this Act and appropriate scientific and medical data re-  
14      lated to the health risks associated with firefighting and  
15      submit to Congress a report which shall include—

16           (1) an analysis of the injury claims made under  
17      this Act;

18           (2) an analysis of the available research related  
19      to the health risks associated with firefighting; and

20           (3) recommendations for any administrative or  
21      legislative actions necessary to ensure that those dis-  
22      eases most associated with firefighting are included  
23      in the presumption created by this Act.

24      (d) EFFECTIVE DATE.—The amendment made by  
25      this section applies to an injury that is first diagnosed,

- 1 or a death that occurs, on or after the date of enactment
- 2 of this Act.

