

By Mr. Dempsey of Haverhill, petition of Brian S. Dempsey for legislation to establish a rebuttable presumption of job-relatedness for workers in waste water treatment and collection facilities suffering from certain disabling conditions of cancer. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT CREATING A REBUTTABLE PRESUMPTION OF JOB-RELATEDNESS FOR WORKERS IN WASTE WATER TREATMENT AND COLLECTION FACILITIES SUFFERING FROM CERTAIN DISABLING CONDITIONS OF CANCER.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 26 of chapter 31 of the General Laws,
2 is hereby amended by striking out the words “ninety-four A and
3 ninety-four B,” inserted by section 1 of chapter 100 of the acts
4 of 1990, and inserting in place thereof the words: — ninety-four
5 A, ninety-four B and ninety-four C.

1 SECTION 2. Chapter 32 of the General Laws is hereby
2 amended by inserting after 94B, inserted by section 2 of chapter
3 100 of the acts of 1990, the following section: —

4 Section 94C. (1) Notwithstanding the provisions of any general
5 or special law to the contrary, any condition of cancer affecting
6 the skin or the central nervous system, eymphatic, digestive,
7 hematological, urinary, sketetal, oral or prostate systems,
8 resulting in total disability or death to a person who works in
9 wastewater treatment or wastewater collection systems including
10 stations, shall, if he successfully passed a physical examination
11 on entry into such service or subsequent to such entry, which
12 examination failed to reveal any evidences of such condition, be
13 presumed to have been suffered in the line of duty, unless it is
14 shown by a preponderance of the evidence that non-service

15 connected risk factors or non-service connected accidents or
16 hazards undergone, or any combination thereof, caused such
17 capacity. The provisions of this section shall only apply if the
18 disabling or fatal condition is a type of cancer which may, in
19 general, result from exposure to heat, radiation, hazardous
20 atmospheres produced from waste water, or a known or suspected
21 carcinogen, as determined by the International Agency for
22 Research on Cancer, so-called. The presumption shall be rebutted
23 if it is shown by a preponderance of the evidence that some
24 combination of non-service related risk factors or incidents was
25 the cause of the condition.

26 (2) The provisions of this section shall not apply to any person
27 serving in such positions for fewer than five years at the time that
28 such condition is first discovered, or should have been discovered,
29 any person first discovering any such condition within five years
30 of the last date on which such person actively so served shall be
31 eligible to apply for benefits hereunder, and such benefits, if
32 granted, shall be payable as the date on which the employee last
33 received regular compensation. The provisions of this section shall
34 not apply to any person serving in such position unless such person
35 shall first establish that he regularly worked, for some portion of
36 his or her service, with or around wastewater.

37 (3) The provisions of this section shall apply as long as the
38 presumption continues for five years after active service, and
39 retroactive benefit recalculation shall also be applicable.

40 (4) The provisions of this section shall also apply to any
41 condition of cancer, other than those listed in subdivision (1),
42 which, in general, may result from exposure to heat, radiation or
43 atmosphere or to a known or suspected carcinogen, or applicable
44 to non-listed cancers which are found by regulation of the
45 commissioner of public health to have a statistically significant
46 correlation with wastewater treatment or collection services.

47 (5) Nothing herein shall preclude a member from applying for
48 and receiving benefits for any other job related disability or death
49 benefit.

1 SECTION 3. Section 100 of said chapter 32, is hereby
2 amended by striking out the words "ninety-four A and ninety-four
3 B", inserted by section 3 of chapter 100 of the acts of 1990, and

4 inserting in place thereof the following words: — ninety-four A,
5 ninety-four B and ninety-four C.

1 SECTION 4. The provisions of this act shall apply only to a
2 person actively employed as a wastewater treatment or collection
3 employee on or after the effective date of this act.

1 SECTION 5. The provisions of this act shall be effective in
2 every retirement system established by or operating under the
3 provisions of chapter thirty-two of the General Laws or under the
4 similar provisions of any other general or special law, and for
5 every governmental unit which is a member of such retirement
6 system, notwithstanding the provisions of section twenty-seven C
7 of chapter twenty-nine of the General Laws.

