

Testimony in Opposition to LD 213
An Act to Require Coverage for Female Firefighters Facing Reproductive System Cancer
Feb. 17, 2021
Presented by Elizabeth Brogan

Senator Rafferty, Representative Sylvester and members of the Joint Committee on Labor and Housing, my name is Elizabeth Brogan. I am the Executive Director of the Workers' Compensation Coordinating Council and Maine Council of Self-Insurers and my testimony is in opposition to LD 213.

Female firefighters—like all firefighters—are covered by the Maine Workers' Compensation Act. Cancer of all kinds, like other diseases and injuries, are covered under the Act and are compensable when they are found to arise out of and in the course of employment (basically, at work and because of work).

This bill seeks to add female reproductive system cancers to the list of cancers presumed to have happened at and because of firefighting work, with no apparent basis in science or compelling data that the sponsor was willing to share ahead of the public hearing. (On Feb. 4 I asked the sponsor about any such study or supporting information and was informed only that testimony and supporting information would be shared at the public hearing, obviously too late to be reviewed and addressed in public testimony.)

Injuries should be *presumed* to have arisen out of and in the course of employment only where circumstances are compelling. Section 328-B of the Maine Workers' Compensation Act was amended in 2009 to create such a presumption for a list of ten different cancers, at least in part in reliance on the LeMasters Meta-Analysis, published and widely reviewed in 2006.

My own research found a subsequent 2013 study of the National Institute of Occupational Safety and Health which looked at cancer in 30,000 firefighters, male and female, in the urban areas of San Francisco, Chicago and Philadelphia, between 1950 and 2009. Even in these urban areas, where firefighters likely respond to more chemical-spewing industrial or tall-building fires relative to, say, traffic accidents or car-deer collisions, there was evidence only of an increased incidence of bladder and breast cancer among female firefighters, **both cancers already included in the §328-B presumption for firefighters**, and a statistically significant increase only in female bladder cancer.

Adding specifically female cancers may *seem* fair, because prostate and testicular cancer are on the list (and were identified as statistically increased risks in the LeMasters Meta-Analysis), but the truth is that all women are unfortunately at risk of the six different reproductive system cancers, a risk which the Centers for Disease Control notes on its website increases with age. According to the CDC, three of the six types of reproductive system cancers are most often caused by the human papillomavirus (HPV), for which there is now a vaccine. An expansion of the presumptions in our Workers' Compensation Act to include female reproductive cancers

should be backed up with strong and unbiased scientific data, not a misguided, if well-intentioned, belief that male and female reproductive cancers are somehow interchangeable.

Finally, unlike most provisions of the Workers' Compensation Act, presumptions generally favor public employees, rather than all workers across the board. The resulting costs will therefore be borne primarily by public employers—our state, counties and municipalities—and ultimately by all taxpayers. Special benefits for certain groups of employees, in the form of expanded presumption laws, should not be awarded through the workers' compensation system without a compelling reason. The Maine Workers' Compensation Act should, and does, provide a fair system for *all* of Maine's workers and employers.

For these reasons, I urge the committee to vote "ought not to pass" on LD 213.