

2026 SESSION

INTRODUCED

26103809D

1 **HOUSE BILL NO. 865**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact § 65.2-402 of the Code of Virginia, relating to workers' compensation;*
5 *presumption of compensability for certain cancers.*

6 Patron—Cousins

7 Committee Referral Pending

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension, heart**
11 **disease, or cancer.**

12 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of
13 Emergency Management hazardous materials officers or (ii) any health condition or impairment of such
14 firefighters or Department of Emergency Management hazardous materials officers resulting in total or
15 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered
16 by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

17 B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in
18 total or partial disability of any of the following persons who have completed five years of service in their
19 position as (i) salaried or volunteer firefighters; (ii) members of the State Police Officers' Retirement
20 System; (iii) members of county, city, or town police departments; (iv) sheriffs and deputy sheriffs; (v)
21 Department of Emergency Management hazardous materials officers; (vi) city sergeants or deputy city
22 sergeants of the City of Richmond; (vii) Virginia Marine Police officers; (viii) conservation police officers
23 who are full-time sworn members of the enforcement division of the Department of Wildlife Resources; (ix)
24 Capitol Police officers; (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed
25 under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for such period that the Metropolitan
26 Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in
27 § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports
28 Authority; (xii) officers of the police force established and maintained by the Norfolk Airport Authority; (xiii)
29 sworn officers of the police force established and maintained by the Virginia Port Authority; (xiv)
30 campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed
31 by any public institution of higher education; and (xv) salaried or volunteer emergency medical services
32 personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a
33 locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions
34 under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are
35 covered by this title unless such presumption is overcome by a preponderance of competent evidence to the
36 contrary.

37 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, testicular, bladder, *lung*,
38 or thyroid cancer or *non-Hodgkin's lymphoma* causing the death of, or any health condition or impairment
39 resulting in total or partial disability of, any of the following persons who have completed five years of
40 service in their position as (i) salaried or volunteer firefighters; (ii) Department of Emergency Management
41 hazardous materials officers; (iii) commercial vehicle enforcement officers or motor carrier safety troopers
42 employed by the Department of State Police; (iv) arson investigators or bomb investigators employed by the
43 Department of State Police; (v) full-time sworn members of the enforcement division of the Department of
44 Motor Vehicles; or (vi) members of the State Police Officers' Retirement System who collect, analyze, or
45 handle hazardous materials, as defined in § 44-146.34, infectious biological substances and radiological
46 agents, as defined in § 18.2-52.1, fentanyl or fentanyl analogs, or methamphetamine, its salts, isomers, or
47 salts of its isomers shall be presumed to be an occupational disease, suffered in the line of duty, that is
48 covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the
49 contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was
50 diagnosed with such a condition before July 1, 2020. For bladder or thyroid cancer, the presumption shall not
51 apply for any individual who was diagnosed with such a condition before July 1, 2023. For throat cancer, the
52 presumption shall include cancer that forms in the tissues of the pharynx, larynx, adenoid, tonsil, esophagus,
53 trachea, nasopharynx, oropharynx, or hypopharynx. For *lung cancer or non-Hodgkin's lymphoma*, the
54 presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2026.

55 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke
56 them have, if requested by the private employer, appointing authority, or governing body employing them,

INTRODUCED

HB865

59 undergone preemployment physical examinations that (i) were conducted prior to the making of any claims
60 under this title that rely on such presumptions;; (ii) were performed by physicians whose qualifications are as
61 prescribed by the private employer, appointing authority, or governing body employing such persons;; (iii)
62 included such appropriate laboratory and other diagnostic studies as the private employer, appointing
63 authorities, or governing bodies may have prescribed;; and (iv) found such persons free of respiratory
64 diseases, hypertension, cancer, or heart disease at the time of such examinations.

65 E. Persons making claims under this title who rely on such presumptions shall, upon the request of private
66 employers, appointing authorities, or governing bodies employing such persons, submit to physical
67 examinations (i) conducted by physicians selected by such employers, authorities, *or* bodies or their
68 representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians.
69 However, a qualified physician, selected and compensated by the claimant, may, at the election of such
70 claimant, be present at such examination.

71 F. Whenever a claim for death benefits is made under this title and the presumptions of this section are
72 invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer,
73 appointing authority, or governing body that had employed the deceased, submit the body of the deceased to
74 a postmortem examination as may be directed by the Commission. A qualified physician, selected and
75 compensated by the person entitled to make the claim, may, at the election of such claimant, be present at
76 such postmortem examination.

77 G. Volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve
78 police are not included within the coverage of this section.

79 H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to
80 § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform
81 firefighting services.