

January 11, 2017

Montana State Legislature  
Senate Business, Labor, and Economic Affairs Committee  
P.O. Box 200400  
Helena, MT 59620-0400

*sent via email to:*  
lkiem@mt.gov

**RE: SB 72, Creates presumptive illness for firefighters– NAMIC’s Written Testimony in Opposition to legislation**

Dear Senator Edward Buttrey, Chair; Senator Dee Brown, Vice-Chair; and honorable members of the Senate Business, Labor, and Economic Affairs Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the Senate Business, Labor and Economic Affairs Committee for the January 13, 2017 public hearing.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 134 members who write property/casualty in the State of Montana, which represents 40% of the insurance marketplace.

Although NAMIC appreciates the risk of life and the exposure to possible health risks experienced by firefighters as part of their noble and invaluable public service employment, NAMIC is concerned about the state legislature creating presumptive illnesses or diseases associated with any particular form of employment.

The “rebuttable presumption” legal doctrine has a long judicial history of being used in only very limited situations, because it runs counter to the well-established jurisprudence that a plaintiff should be required to “prove up their claim” with evidence of injury or damages that satisfies their legal burden of proof. The “rebuttable presumption” doctrine shifts the legal burden of production of evidence and the burden of proof from the plaintiff-employee to the defendant-employer to refute the plaintiff-employee’s claim that they have incurred a compensable illness or disease as a mere result of their employment.

NAMIC is concerned, from a “slippery slope” public policy stand point that SB 72 will lead to additional legislation being introduced to create other rebuttable presumptions of injuries, damages, or diseases based solely upon a plaintiff’s occupation. This could be acutely problematic for private employers, who do not have public resources, staffing, and financial reserves necessary to successfully rebut a plaintiff-employee’s illness or disease claim. Consequently, NAMIC respectfully requests that the Senate Business, Labor, and Economic Affairs Committee **VOTE NO on SB 72**.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC’s written testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian John Rataj". The signature is fluid and cursive, with the first name "Christian" and last name "Rataj" being the most prominent parts.

Christian John Rataj, Esq.  
NAMIC – Senior Director of State Affairs  
Western Region