

FINAL BILL REPORT

ESHB 1833

PARTIAL VETO

C 490 L 07

Synopsis as Enacted

Brief Description: Expanding the presumption of occupational disease for firefighters.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Pettigrew, Seaquist, Upthegrove, Morrell, Kessler, P. Sullivan, Williams, Kenney, Haler, Ericksen, Moeller, Sells, Dunn, Rolfes, Lantz, McCoy, Lovick, Jarrett, Strow, Hurst, Springer, Campbell, Goodman, Simpson, Pearson, Curtis, Rodne, Schual-Berke, McDermott, Ormsby and Chase).

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce, Research & Development

Background:

A worker who, in the course of employment, suffers disability from an occupational disease may be entitled to benefits under the Industrial Insurance Act (Act). To prove an occupational disease, the injured worker must show that the disease arose "naturally and proximately" out of employment.

Members of the Law Enforcement Officers' and Fire Fighters' retirement system are covered for workplace injuries and occupational diseases under the Act. In 1987 the Legislature created a rebuttable presumption that respiratory diseases in firefighters are occupationally related. In 2002 the Legislature expanded this presumption to include a presumption that the following diseases are occupational diseases:

- respiratory disease;
- heart problems that are experienced within 72 hours of exposure to smoke, fumes, or toxic substances;
- primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter cancer, and kidney cancer; and
- infectious diseases, including Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome, hepatitis, meningococcal meningitis, or mycobacterium tuberculosis.

With respect to the cancers presumed to be an occupational disease, an active or former firefighter must have cancer that developed or manifested itself after at least 10 years of service and must have had a qualifying medical examination at the time of becoming a firefighter that showed no evidence of cancer.

The presumption of occupational disease may be rebutted by a preponderance of evidence, including, but not limited to: use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or non-employment activities.

Since July 1, 2003, the presumption of occupational disease has not applied to a firefighter who develops a heart or lung condition and who is a regular user of tobacco products or who has a history of tobacco use.

Summary:

Legislative Findings.

Legislative findings are made related to the following:

- firefighters' exposures, by reason of their employment, to smoke, fumes, infectious diseases, and toxic and hazardous substances;
- firefighters' entering uncontrolled environments to save lives, provide emergency services, and reduce property damage, without being aware of potential toxic and carcinogenic substances and infectious diseases;
- the slow development of harmful effect caused by these exposures;
- firefighters frequently and at unpredictable intervals performing job duties under strenuous physical conditions unique to their employment; and
- firefighting exacerbating cardiovascular disease.

Presumption of Occupational Disease.

A presumption of occupational disease is added for heart problems that are experienced within 24 hours of strenuous physical exertion due to firefighting activities. "Firefighting activities" means fire suppression, fire prevention, emergency medical services, rescue operations, hazardous materials response, aircraft rescue, and training and other assigned duties related to emergency response.

Certain cancers are added to the list of cancers presumed to be occupational diseases. The added cancers are: prostate cancer diagnosed prior to the age of 50, colorectal cancer, multiple myeloma, and testicular cancer.

Litigation Costs and Fees.

When a determination involving the presumption of occupational disease for firefighters is appealed to the Board of Industrial Insurance Appeals or to any court and the final decision allows the claim for benefits, the Board of Industrial Insurance Appeals or the court must order that all reasonable costs of the appeal be paid to the firefighter or his or her beneficiary.

Votes on Final Passage:

House	83	12	
Senate	46	2	(Senate amended)
House	91	6	(House concurred)

Effective: July 22, 2007

Partial Veto Summary: The Governor vetoed the intent section, which contained legislative findings about firefighters working in the midst of smoke, fumes, infectious diseases, and toxic and hazardous substances; firefighters entering uncontrolled environments to save lives, provide emergency medical services, and reduce property damage without being aware of the potential toxic and carcinogenic substances, and infectious diseases that they may be exposed to; the harmful effects caused by firefighters' exposure to hazardous substances developing very slowly, manifesting themselves years after exposure; firefighters frequently and at unpredictable intervals performing job duties under strenuous physical conditions unique to their employment when engaged in firefighting activities; and firefighting duties exacerbating and increasing the incidence of cardiovascular disease in firefighters.