
SUBSTITUTE SENATE BILL 5940

State of Washington

65th Legislature

2018 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Keiser, Conway, and Palumbo)

READ FIRST TIME 01/17/18.

1 AN ACT Relating to the presumption of occupational disease for
2 certain employees at the United States department of energy Hanford
3 site; and adding a new section to chapter 51.32 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.32
6 RCW to read as follows:

7 (1) The definitions in this section apply throughout this
8 section.

9 (a) "Hanford nuclear site" and "Hanford site" and "site" means
10 the approximately five hundred sixty square miles in southeastern
11 Washington state, excluding leased land, state-owned lands, and lands
12 owned by the Bonneville Power Administration, which is owned by the
13 United States and which is commonly known as the Hanford reservation.

14 (b) "United States department of energy Hanford site workers" and
15 "Hanford site worker" means any person, including a contractor or
16 subcontractor, who was engaged in the performance of work, either
17 directly or indirectly, for the United States, regarding projects and
18 contracts at the Hanford nuclear site and who worked on the site at
19 the two hundred east, two hundred west, three hundred area,
20 environmental restoration disposal facility site, central plateau, or

1 the river corridor locations for at least one eight-hour shift while
2 covered under this title.

3 (2)(a) For United States department of energy Hanford site
4 workers, as defined in this section, who are covered under this
5 title, there exists a prima facie presumption that the diseases and
6 conditions listed in subsection (3) of this section are occupational
7 diseases under RCW 51.08.140.

8 (b) This presumption of occupational disease may be rebutted by
9 clear and convincing evidence. Such evidence may include, but is not
10 limited to, use of tobacco products, physical fitness and weight,
11 lifestyle, hereditary factors, and exposure from other employment or
12 nonemployment activities.

13 (3) The prima facie presumption applies to the following:

14 (a) Respiratory disease;

15 (b) Any heart problems, experienced within seventy-two hours of
16 exposure to fumes, toxic substances, or chemicals at the site;

17 (c) Cancer, subject to subsection (4) of this section;

18 (d) Beryllium sensitization, and acute and chronic beryllium
19 disease; and

20 (e) Neurological disease.

21 (4)(a) The presumption established for cancer only applies to any
22 active or former United States department of energy Hanford site
23 worker who has cancer that develops or manifests itself and who was
24 given a qualifying medical examination upon becoming a United States
25 department of energy Hanford site worker that showed no evidence of
26 cancer.

27 (b) The presumption applies to the following cancers:

28 (i) Leukemia;

29 (ii) Primary or secondary lung cancer, including bronchi and
30 trachea, sarcoma of the lung, other than in situ lung cancer that is
31 discovered during or after a postmortem examination, but not
32 including mesothelioma or pleura cancer;

33 (iii) Primary or secondary bone cancer, including the bone form
34 of solitary plasmacytoma, myelodysplastic syndrome, myelofibrosis
35 with myeloid metaplasia, essential thrombocytosis or essential
36 thrombocythemia, primary polycythemia vera (also called polycythemia
37 rubra vera, P. vera, primary polycythemia, proliferative
38 polycythemia, spent-phase polycythemia, or primary erythremia);

39 (iv) Primary or secondary renal (kidney) cancer;

40 (v) Lymphomas, other than Hodgkin's disease;

1 (vi) Waldenstrom's macroglobulinemia and mycosis fungoides; and
2 (vii) Primary cancer of the: (A) Thyroid; (B) male or female
3 breast; (C) esophagus; (D) stomach; (E) pharynx, including all three
4 areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The
5 oropharynx includes base of tongue, soft palate and tonsils (the
6 hypopharynx includes the pyriform sinus); (F) small intestine; (G)
7 pancreas; (H) bile ducts, including ampulla of vater; (I) gall
8 bladder; (J) salivary gland; (K) urinary bladder; (L) brain
9 (malignancies only and not including intracranial endocrine glands
10 and other parts of the central nervous system or borderline
11 astrocytomas); (M) colon, including rectum and appendix; (N) ovary,
12 including fallopian tubes if both organs are involved; and (O) liver,
13 except if cirrhosis or hepatitis B is indicated.

14 (5)(a) The presumption established in this section extends to an
15 applicable United States department of energy Hanford site worker
16 following termination of service for the lifetime of that individual.

17 (b) A worker or the survivor of a worker who has died as a result
18 of one of the conditions or diseases listed in subsection (3) of this
19 section, and whose claim was denied by order of the department, the
20 board of industrial insurance appeals, or a court, can file a new
21 claim for the same exposure and contended condition or disease.

22 (c) This section applies to decisions made after the effective
23 date of this section, without regard to the date of last injurious
24 exposure or claim filing.

25 (6)(a) When a determination involving the presumption established
26 in this section is appealed to the board of industrial insurance
27 appeals and the final decision allows the claim of benefits, the
28 board of industrial insurance appeals shall order that all reasonable
29 costs of the appeal, including attorneys' fees and witness fees, be
30 paid to the worker or his or her beneficiary by the opposing party.

31 (b) When a determination involving the presumption established in
32 this section is appealed to any court and the final decision allows
33 the claim for benefits, the court shall order that all reasonable
34 costs of appeal, including attorneys' fees and witness fees, be paid
35 to the worker or his or her beneficiary by the opposing party.

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