

FINAL BILL REPORT

HB 1913

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Synopsis as Enacted

Brief Description: Concerning the presumption of occupational disease for purposes of workers' compensation by adding medical conditions to the presumption, extending the presumption to certain publicly employed firefighters and investigators and law enforcement, addressing the qualifying medical examination, and creating an advisory committee.

Sponsors: Representatives Doglio, Sells, Bergquist, Griffey, Peterson, Reeves, Lovick, Stonier, Orwall, Irwin, Appleton, Dolan, Leavitt, Ortiz-Self, Shewmake, Stanford, Valdez, Goodman, Pollet, Macri, Santos, Lekanoff, Ormsby, Tharinger, Young and Davis.

House Committee on Labor & Workplace Standards
Senate Committee on Labor & Commerce
Senate Committee on Ways & Means

Background:

Under the state's industrial insurance laws, a worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to certain benefits. To prove an occupational disease, the worker must show that the disease arose "naturally and proximately" out of employment. Employers insure through the State Fund administered by the Department of Labor and Industries (Department) or may self-insure if qualified.

For firefighters who are members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) and certain private sector firefighters, there is a presumption that certain medical conditions are occupational diseases. Those conditions are: (1) respiratory disease; (2) heart problems; (3) specified cancers; (4) infectious diseases; and (5) posttraumatic stress disorder. With respect to heart problems, the problems must be experienced within 72 hours of exposure to smoke, fumes, or toxic substances; or experienced within 24 hours of strenuous physical exertion due to firefighting activities.

Cancers covered are prostate cancer diagnosed before age 50, primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter cancer, colorectal cancer, multiple myeloma, testicular cancer, and kidney cancer. The firefighter must have served at least 10 years before the cancer develops or manifests itself and received a qualifying medical examination (exam) upon becoming a firefighter that showed no evidence of cancer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The posttraumatic stress disorder presumption also applies to law enforcement officers and emergency medical technicians who are members of the LEOFF.

The presumption of occupational disease may be rebutted by a preponderance of evidence, including: (1) use of tobacco products; (2) physical fitness and weight; (3) lifestyle; (4) hereditary factors; and (5) exposure from other employment or non-employment activities. In addition, the presumption does not apply 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.

Emergency medical technicians are members of the LEOFF if they work on a full-time, fully compensated basis for certain public employers, and their duties include providing emergency medical services.

In an appeal of a presumption case to the Board of Industrial Insurance Appeals, if the claim is allowed, the opposing party must pay the reasonable costs of the appeal to the firefighter. A similar provision applies to appeals to court.

The Safety and Health Assessment and Research for Prevention program (SHARP) is an occupational safety and health research program within the Department.

Summary:

Occupations and Presumptive Diseases.

Emergency medical technicians who are in the LEOFF and public employee fire investigators are included in the list of workers covered by the presumptions for respiratory disease, heart problems, specified cancers, and infectious diseases. The following cancers are added to the presumption:

- mesothelioma;
- stomach cancer;
- non-melanoma skin cancer;
- breast cancer in women; and
- cervical cancer.

If workers covered by the presumption were hired before the effective date of the act and the employer did not provide a medical exam, the exam requirement is satisfied if the firefighter or fire investigator receives an exam on or before July 1, 2020. If the firefighter or fire investigator is diagnosed with a covered cancer at this exam, or the employer does not provide the exam, the presumption applies. In addition, the presumption applies if an employer does not provide an exam at the time of hire for those fire investigators and firefighters hired after the effective date of the bill.

A presumption is established for law enforcement officers that heart problems, under very similar limitations as for heart problems for firefighters, and infectious diseases are occupational diseases. The strenuous physical exertion requirement for heart problems applies to exertion by a law enforcement officer in the line-of-duty.

The costs of the appeal provisions apply to fire investigators and law enforcement officers.

Advisory Committee.

The Director of the Department must create an advisory committee (committee) on occupational disease presumptions composed of two epidemiologists, two preventative medicine physicians, and one industrial hygienist. The research Director of the SHARP serves as the non-voting chair. Conflict of interest provisions apply to all members.

The chair or ranking member of the appropriate legislative committee may initiate a request for the committee to review scientific evidence and make recommendations on specific disorders or diseases or occupations to include in the provisions on presumptions. The committee must conduct a thorough review of the literature on the disease or disorder, relevant exposures, and strength of the association between the occupation and the disease or disorder. The committee may consult nationally recognized experts or subject matter experts.

Within the earlier of 180 days or when the committee reaches a consensus recommendation, the committee must provide a recommendation to the Legislature. Recommendations must be made by a majority of the voting members, and any member may write a dissent. Recommendations must include a description of the scientific evidence and supporting information. Estimates of the number of Washington workers at risk, the prevalence of the disease or disorder, and the medical treatment and disability costs should be included with the recommendation if available.

The SHARP provides organizational and scientific support to the committee.

Votes on Final Passage:

House	89	5
Senate	47	0

Effective: July 28, 2019