

SHB 1723 - H AMD 125

By Representative Haler

WITHDRAWN 03/02/2017

1 Strike everything after the enacting clause and insert the
2 following:

3

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

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

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

14 (b) "United States department of energy Hanford site workers"
15 and "Hanford site worker" means any person, including a contractor
16 or subcontractor, who was engaged in the performance of work, either
17 directly or indirectly, for the United States, regarding projects
18 and contracts at the Hanford nuclear site and who worked on the site
19 for at least one eight-hour shift while covered under this title.

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

25 (b) The presumption may be rebutted by a preponderance of the
26 evidence. Such evidence may include, but is not limited to, use of
27 tobacco products, physical fitness and weight, lifestyle, hereditary

1 factors, and exposure from other employment or nonemployment
2 activities.

3 (c) The presumption created under this section applies to claims
4 filed on or after the effective date of this act, and where the
5 injurious exposure occurred on or after January 1, 2007.

6 (d) For any claims arising from the presumption created under
7 this section, the department of energy is the responsible employer
8 and retains all liability. Costs for claims arising from the
9 presumption created under this section may not be borne by the state
10 fund.

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

12 (a) Acute and chronic beryllium disease;

13 (b) Respiratory disease;

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

16 (d) Cancer, subject to subsection (4) of this section; and

17 (e) Neurological disease.

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

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

25 (i) Leukemia;

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

30 (iii) Primary or secondary bone cancer, including the bone form
31 of solitary plasmacytoma, myelodysplastic syndrome, myelobibrosis
32 with myeloid metaplasia, essential thrombocytosis or essential
33 thrombocythemia, primary polycythemia vera (also called polycythemia
34

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

18 (5) The presumption established in this section extends to an
19 applicable United States department of energy Hanford site worker
20 following termination of service for the lifetime of that
21 individual.

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

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

EFFECT: The striking amendment makes the following changes:

- Removes the provision allowing persons with previously denied claims to file new claims for the same exposure;
- Removes the provision stating the presumption applies to decisions made after the effective date of the act, and instead provides that the presumption applies to claims filed on or after the effective date of the act and where the injurious exposure occurred on or after January 1, 2007;
- Provides that the presumption may be rebutted by a preponderance of the evidence (rather than by clear and convincing evidence); and
- Adds a provision stating that for claims arising from the presumption, the Department of Energy is the responsible employer and no costs may be borne by the state fund (a provision in the original bill).

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