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HOUSE BILL 1655

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Lovick, Holy, Griffey, Hayes, Sells, Doglio, Stokesbary, Frame, Irwin, Fitzgibbon, Pike, Fey, Goodman, Pollet, and Stanford

Read first time 01/26/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to providing industrial insurance coverage for  
2 stress-caused mental disorders and disabilities of members of the law  
3 enforcement officers' and firefighters' retirement system; and  
4 amending RCW 51.08.142 and 51.32.185.

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

6 **Sec. 1.** RCW 51.08.142 and 1988 c 161 s 16 are each amended to  
7 read as follows:

8 The department shall adopt a rule pursuant to chapter 34.05 RCW  
9 that claims based on mental conditions or mental disabilities caused  
10 by stress do not fall within the definition of occupational disease  
11 in RCW 51.08.140, except for claims made by a member of the law  
12 enforcement officers' and firefighters' retirement system under  
13 chapter 41.26 RCW.

14 **Sec. 2.** RCW 51.32.185 and 2007 c 490 s 2 are each amended to  
15 read as follows:

16 (1)(a) In the case of firefighters as defined in RCW  
17 41.26.030(~~((+4))~~) (16) (a), (b), and (c) who are covered under Title  
18 51 RCW and firefighters, including supervisors, employed on a full-  
19 time, fully compensated basis as a firefighter of a private sector  
20 employer's fire department that includes over fifty such

1 firefighters, there shall exist a prima facie presumption that:  
2 ~~((a))~~ (i) Respiratory disease; ~~((b))~~ (ii) any heart problems,  
3 experienced within seventy-two hours of exposure to smoke, fumes, or  
4 toxic substances, or experienced within twenty-four hours of  
5 strenuous physical exertion due to firefighting activities; ~~((e))~~  
6 (iii) cancer; and ~~((d))~~ (iv) infectious diseases are occupational  
7 diseases under RCW 51.08.140.

8 (b) In the case of firefighters as defined in RCW 41.26.030(16)  
9 (a), (b), (c), and (h) and law enforcement officers as defined in RCW  
10 41.26.030(18) (b), (c), and (e), who are covered under Title 51 RCW,  
11 there shall exist a prima facie presumption that posttraumatic stress  
12 disorder is an occupational disease under RCW 51.08.140.

13 (c) This presumption of occupational disease established in (a)  
14 and (b) of this subsection may be rebutted by a preponderance of the  
15 evidence. Such evidence may include, but is not limited to, use of  
16 tobacco products, physical fitness and weight, lifestyle, hereditary  
17 factors, and exposure from other employment or nonemployment  
18 activities.

19 (2) The presumptions established in subsection (1) of this  
20 section shall be extended to an applicable member following  
21 termination of service for a period of three calendar months for each  
22 year of requisite service, but may not extend more than sixty months  
23 following the last date of employment.

24 (3) The presumption established in subsection (1)~~((e))~~ (a)(iii)  
25 of this section shall only apply to any active or former firefighter  
26 who has cancer that develops or manifests itself after the  
27 firefighter has served at least ten years and who was given a  
28 qualifying medical examination upon becoming a firefighter that  
29 showed no evidence of cancer. The presumption within subsection (1)  
30 ~~((e))~~ (a)(iii) of this section shall only apply to prostate cancer  
31 diagnosed prior to the age of fifty, primary brain cancer, malignant  
32 melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter  
33 cancer, colorectal cancer, multiple myeloma, testicular cancer, and  
34 kidney cancer.

35 (4) The presumption established in subsection (1)~~((d))~~ (a)(iv)  
36 of this section shall be extended to any firefighter who has  
37 contracted any of the following infectious diseases: Human  
38 immunodeficiency virus/acquired immunodeficiency syndrome, all  
39 strains of hepatitis, meningococcal meningitis, or mycobacterium  
40 tuberculosis.

1 (5) Beginning July 1, 2003, this section does not apply to a  
2 firefighter who develops a heart or lung condition and who is a  
3 regular user of tobacco products or who has a history of tobacco use.  
4 The department, using existing medical research, shall define in rule  
5 the extent of tobacco use that shall exclude a firefighter from the  
6 provisions of this section.

7 (6) For purposes of this section, "firefighting activities" means  
8 fire suppression, fire prevention, emergency medical services, rescue  
9 operations, hazardous materials response, aircraft rescue, and  
10 training and other assigned duties related to emergency response.

11 (7)(a) When a determination involving the presumption established  
12 in this section is appealed to the board of industrial insurance  
13 appeals and the final decision allows the claim for benefits, the  
14 board of industrial insurance appeals shall order that all reasonable  
15 costs of the appeal, including attorney fees and witness fees, be  
16 paid to the firefighter or his or her beneficiary by the opposing  
17 party.

18 (b) When a determination involving the presumption established in  
19 this section is appealed to any court and the final decision allows  
20 the claim for benefits, the court shall order that all reasonable  
21 costs of the appeal, including attorney fees and witness fees, be  
22 paid to the firefighter or his or her beneficiary by the opposing  
23 party.

24 (c) When reasonable costs of the appeal must be paid by the  
25 department under this section in a state fund case, the costs shall  
26 be paid from the accident fund and charged to the costs of the claim.

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