
SENATE BILL 6214

State of Washington

65th Legislature

2018 Regular Session

By Senators Conway, Hobbs, Keiser, Van De Wege, Palumbo, Hasegawa, Rolfes, Ranker, Mullet, Saldaña, Kuderer, and Wellman

Read first time 01/10/18. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to industrial insurance coverage for
2 posttraumatic stress disorders of members of the law enforcement
3 officers' and firefighters' retirement systems; amending RCW
4 51.08.142 and 51.32.185; and adding a new section to chapter 51.08
5 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08
8 RCW to read as follows:

9 "Posttraumatic stress disorder" means a disorder that meets the
10 diagnostic criteria for posttraumatic stress specified by the
11 American psychiatric association in the diagnostic and statistics
12 manual of mental disorders, fifth edition, or in a later edition as
13 adopted by the department in rule.

14 **Sec. 2.** RCW 51.08.142 and 1988 c 161 s 16 are each amended to
15 read as follows:

16 (1) Except as provided in subsection (2) of this section, the
17 department shall adopt a rule pursuant to chapter 34.05 RCW that
18 claims based on mental conditions or mental disabilities caused by
19 stress do not fall within the definition of occupational disease in
20 RCW 51.08.140.

1 (2) The rule adopted under subsection (1) of this section shall
2 not apply to occupational disease claims resulting from posttraumatic
3 stress disorders of firefighters as defined in RCW 41.26.030(16) (a),
4 (b), (c), and (h) and law enforcement officers as defined in RCW
5 41.26.030(18) (b), (c), and (e).

6 **Sec. 3.** RCW 51.32.185 and 2007 c 490 s 2 are each amended to
7 read as follows:

8 (1)(a) In the case of firefighters as defined in RCW
9 41.26.030(~~(4)~~) (16) (a), (b), and (c) who are covered under this
10 title (~~(51-RCW)~~) and firefighters, including supervisors, employed on
11 a full-time, fully compensated basis as a firefighter of a private
12 sector employer's fire department that includes over fifty such
13 firefighters, there shall exist a prima facie presumption that:
14 (~~(a)~~) (i) Respiratory disease; (~~(b)~~) (ii) any heart problems,
15 experienced within seventy-two hours of exposure to smoke, fumes, or
16 toxic substances, or experienced within twenty-four hours of
17 strenuous physical exertion due to firefighting activities; (~~(e)~~)
18 (iii) cancer; and (~~(d)~~) (iv) infectious diseases are occupational
19 diseases under RCW 51.08.140.

20 (b) In the case of firefighters as defined in RCW 41.26.030(16)
21 (a), (b), (c), and (h) and law enforcement officers as defined in RCW
22 41.26.030(18) (b), (c), and (e), who are covered under this title,
23 there shall exist a prima facie presumption that posttraumatic stress
24 disorder is an occupational disease under RCW 51.08.140.

25 (c) This presumption of occupational disease established in (a)
26 and (b) of this subsection may be rebutted by a preponderance of the
27 evidence. Such evidence may include, but is not limited to, use of
28 tobacco products, physical fitness and weight, lifestyle, hereditary
29 factors, and exposure from other employment or nonemployment
30 activities.

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

36 (3) The presumption established in subsection (1)(~~(e)~~) (a)(iii)
37 of this section shall only apply to any active or former firefighter
38 who has cancer that develops or manifests itself after the
39 firefighter has served at least ten years and who was given a

1 qualifying medical examination upon becoming a firefighter that
2 showed no evidence of cancer. The presumption within subsection (1)
3 (~~(e)~~) (a)(iii) of this section shall only apply to prostate cancer
4 diagnosed prior to the age of fifty, primary brain cancer, malignant
5 melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter
6 cancer, colorectal cancer, multiple myeloma, testicular cancer, and
7 kidney cancer.

8 (4) The presumption established in subsection (1)(~~(d)~~) (a)(iv)
9 of this section shall be extended to any firefighter who has
10 contracted any of the following infectious diseases: Human
11 immunodeficiency virus/acquired immunodeficiency syndrome, all
12 strains of hepatitis, meningococcal meningitis, or mycobacterium
13 tuberculosis.

14 (5) For firefighters as defined in RCW 41.26.030(16) (a), (b),
15 (c), and (h) and law enforcement officers as defined in RCW
16 41.26.030(18) (b), (c), and (e) hired after the effective date of
17 this section, the presumption established in subsection (1)(b) of
18 this section shall only apply if the firefighter or law enforcement
19 officer was given a posttraumatic stress disorder screening upon
20 becoming a firefighter or law enforcement officer that showed no
21 evidence of posttraumatic stress disorder.

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

28 (~~(6)~~) (7) For purposes of this section, "firefighting
29 activities" means fire suppression, fire prevention, emergency
30 medical services, rescue operations, hazardous materials response,
31 aircraft rescue, and training and other assigned duties related to
32 emergency response.

33 (~~(7)~~) (8)(a) When a determination involving the presumption
34 established in this section is appealed to the board of industrial
35 insurance appeals and the final decision allows the claim for
36 benefits, the board of industrial insurance appeals shall order that
37 all reasonable costs of the appeal, including attorney fees and
38 witness fees, be paid to the firefighter or his or her beneficiary by
39 the opposing party.

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

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

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