

# SENATE BILL REPORT

## SB 5175

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As Reported by Senate Committee On:  
Labor & Commerce, February 4, 2019

**Title:** An act relating to firefighter safety.

**Brief Description:** Concerning firefighter safety.

**Sponsors:** Senators Braun, Keiser, Becker, Fortunato, Palumbo, Wilson, L., Rivers, Kuderer, O'Ban, Van De Wege and Wagoner.

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/22/19, 2/04/19 [DPS].

### Brief Summary of First Substitute Bill

- Requires L&I to establish best practices to improve firefighter safety and health outcomes in consultation with firefighters and their employers.
- Provides that L&I must determine criteria for the premium discount eligibility.
- Funds equipment purchases to follow best practices to 2 percent of the workers' compensation premiums paid for firefighters and restricts funding to state fund employers.
- Allows L&I to require matching funds from employers.
- Defines the term firefighter.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** That Substitute Senate Bill No. 5175 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Walsh and Wellman.

**Staff:** Susan Jones (786-7404)

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*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.*

**Background:** In the case of certain firefighters, there is a prima facie presumption that the certain diseases are occupational diseases under certain circumstances for workers' compensation, including cancer. This presumption of occupational disease may be rebutted by a preponderance of evidence. This evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities. The presumption is extended to an applicable member following termination of service for a period of three calendar months for each year of requisite service, but may not extend more than 60 months following the last date of employment.

The cancer presumption only applies to any active or former firefighter who has cancer that develops or manifests itself after the firefighter has served at least ten years and who was given a qualifying medical examination upon becoming a firefighter that showed no evidence of cancer. The presumption only apply to these types of cancers:

- prostate cancer diagnosed prior to the age of fifty;
- primary brain cancer;
- malignant melanoma;
- leukemia;
- non-Hodgkin's lymphoma;
- bladder cancer;
- ureter cancer;
- colorectal cancer;
- multiple myeloma;
- testicular cancer; and
- kidney cancer.

Generally, 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. The Department of Labor and Industries (L&I), using existing medical research, is required to, and has defined in rule, the extent of the tobacco use exclusion.

**Summary of Bill (First Substitute):** L&I must establish best practices to improve safety and health outcomes for firefighters, including best practices:

- for a proactive health and safety risk management system consisting of a joint employer and employee governance structure to oversee a continuous process of identification, evaluation, monitoring and controlling, and reporting safety and health hazards in the workplace;
- to reduce firefighter risk of exposure to carcinogens; and
- to prevent or reduce the risk of injuries and illness with particular focus on causes of compensable workers' compensation claims.

Employers of firefighters who implement the best practices may be eligible for a premium discount as determined by L&I. L&I must consult with firefighters and their employers in establishing the best practices and criteria for a premium discount.

The term firefighter is defined.

L&I may provide funding of up to two percent of the premiums paid in the prior year from the risk classes for firefighters for the purposes of providing funding to state fund employers of firefighters who have limited resources to purchase additional equipment and other gear needed to follow best practices. L&I may require matching funds from employers.

**EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):**

- Requires L&I to establish best practices to improve firefighter safety and health outcomes in consultation with firefighters and their employers.
- Provides that L&I must determine criteria for the premium discount eligibility.
- Modifies funding for equipment purchases to follow best practices to 2 percent of the workers' compensation premiums paid for firefighters and restricts funding to state fund employers.
- Allows L&I to require matching funds from employers.
- Defines the term firefighter.

**Appropriation:** The bill contains an appropriation totaling \$100,000 from the general fund.

**Fiscal Note:** Requested on January 18, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This is a bill that first came to mind last year as we struggle with the bills related to presumptions. These were important bills but the work is not done. It led to conversations about the risks to firefighters. The first principle when dealing with the challenges associated with safety is that the best solution is always prevention.

In 2013, the Legislature worked on the logger safety initiative. There was a very proactive approach to encourage safety upfront and establish best practices. Those who enroll and engage in work to be safer will have some reward. This bill applies the same practice to fire service. We found the healthy in and healthy out, which was funded by a SHIP grant a few years ago. This program does a great job of laying out best practices for reduction of risk to firefighters.

The bill provides that if you adopt best practices to reduce exposure to contamination and then long term disease, you are going to be safer and then L&I can look at reducing the cost of your premiums in the future based on an actuarial rate. This will keep firefighters safe and drive down costs for both cities and fire districts.

The best practices provides for how to decontaminate and removing the gear to make sure that debris is not inhaled and spread. Some of our departments are financially able and doing a great job. Some may not be using best practices because of the department's culture or because of lack of funding.

The issue of presumptive disease in worker's comp is extremely contentious. Cities have consistently been supportive of proactive measures. The best practices are outstanding. A lot of cities are already doing a lot of that work but somewhat ad hoc. If L&I does some of this work, it can be applied in a much more general widespread way. The provision related to additional resources for smaller cities or departments is that an outstanding step forward.

L&I is in support of the concept that the only good injury or occupational disease is one that is avoided. There are some technical suggestions. The return on investment could be more quickly seen and recognized through the premium reduction if preventing injuries is added. Firefighters are not just called out to fires. We are seeing injuries in lifting patients. Where we can identify the most common injuries and then create incentives for departments to adopt best practices to address those injuries, we would see those premium reductions because injuries would be avoided. There are questions of how to provide incentives for the self-insured employers who do not pay premiums.

OTHER: We support it with some concerns. This bill is important. We have to put some investment in prevention. There are some concerns on how this would impact volunteer firefighters. The concerns are very fixable.

**Persons Testifying:** PRO: Senator John Braun, Prime Sponsor; Logan Bahr, Association of Washington Cities.

OTHER: Wayne Senter, Washington Fire Chiefs; Tammy Fellin, L&I.

**Persons Signed In To Testify But Not Testifying:** No one.