

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2663

Chapter 337, Laws of 2002

(partial veto)

57th Legislature
2002 Regular Session

FIRE FIGHTERS--OCCUPATIONAL DISEASES

EFFECTIVE DATE: 6/13/02

Passed by the House March 11, 2002
Yeas 94 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 7, 2002
Yeas 48 Nays 0

BRAD OWEN
President of the Senate

Approved April 3, 2002, with the
exception of section 1, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2663** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

FILED

April 3, 2002 - 10:45 a.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2663

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Conway, Clements, Cooper, Reardon, Sullivan, Delvin, Simpson, Armstrong, Hankins, Benson, Cairnes, Lysen, Kirby, Edwards, Chase, Kenney, Campbell, Barlean, Santos, Talcott, Wood and Rockefeller)

Read first time 02/11/2002. Referred to Committee on .

1 AN ACT Relating to occupational diseases affecting fire fighters;
2 amending RCW 51.32.185; and creating a new section.

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

4 ***NEW SECTION.** *Sec. 1. (1) The legislature finds that:*

5 *(a) Benzene is detected in most fire environments and has been*
6 *associated with leukemia and multiple myeloma. Given the established*
7 *exposure to benzene in a fire environment, there is biologic*
8 *plausibility for fire fighters to be at increased risk of these*
9 *malignancies;*

10 *(b) Increased risks of leukemia and lymphoma have been described in*
11 *several epidemiologic studies of fire fighters. The risks of leukemia*
12 *are often two or three times that of the population as a whole, and a*
13 *two-fold risk of non-Hodgkin's lymphoma has also been found;*

14 *(c) Epidemiologic studies assessing fire fighters' cancer risks*
15 *concluded that there is adequate support for a causal relationship*
16 *between fire fighting and brain cancer;*

17 *(d) Fire fighters are exposed to polycyclic aromatic hydrocarbons*
18 *as products of combustion and these chemicals have been associated with*
19 *bladder cancer. The epidemiologic data suggests fire fighters have a*

1 *three-fold risk of bladder cancer compared to the population as a*
2 *whole;*

3 *(e) A 1990 review of fire fighter epidemiology calculated a*
4 *statistically significant risk for melanoma among fire fighters;*

5 *(f) Fire fighters are exposed to extremely hazardous environments.*
6 *Potentially lethal products of combustion include particulates and*
7 *gases and are the major source of fire fighter exposures to toxic*
8 *chemicals; and*

9 *(g) The burning of a typical urban structure containing woods,*
10 *paints, glues, plastics, and synthetic materials in furniture,*
11 *carpeting, and insulation liberates hundreds of chemicals. Fire*
12 *fighters are exposed to a wide variety of potential carcinogens,*
13 *including polycyclic aromatic hydrocarbons in soots, tars, and diesel*
14 *exhaust, arsenic in wood preservatives, formaldehyde in wood smoke, and*
15 *asbestos in building insulation.*

16 *(2) The legislature further finds that some occupational diseases*
17 *resulting from fire fighter working conditions can develop slowly,*
18 *usually manifesting themselves years after exposure.*

19 **Sec. 1 was vetoed. See message at end of chapter.*

20 **Sec. 2.** RCW 51.32.185 and 1987 c 515 s 2 are each amended to read
21 as follows:

22 (1) In the case of fire fighters as defined in RCW 41.26.030(4)
23 (a), (b), and (c) who are covered under Title 51 RCW and fire fighters,
24 including supervisors, employed on a full-time, fully compensated basis
25 as a fire fighter of a private sector employer's fire department that
26 includes over fifty such fire fighters, there shall exist a prima facie
27 presumption that: (a) Respiratory disease ((is—an)); (b) heart
28 problems that are experienced within seventy-two hours of exposure to
29 smoke, fumes, or toxic substances; (c) cancer; and (d) infectious
30 diseases are occupational diseases under RCW 51.08.140. This
31 presumption of occupational disease may be rebutted by a preponderance
32 of the evidence ((controverting the presumption)). ((Controverting))
33 Such evidence may include, but is not limited to, use of tobacco
34 products, physical fitness and weight, lifestyle, hereditary factors,
35 and exposure from other employment or nonemployment activities.

36 (2) The presumptions established in subsection (1) of this section
37 shall be extended to an applicable member following termination of
38 service for a period of three calendar months for each year of

1 requisite service, but may not extend more than sixty months following
2 the last date of employment.

3 (3) The presumption established in subsection (1)(c) of this
4 section shall only apply to any active or former fire fighter who has
5 cancer that develops or manifests itself after the fire fighter has
6 served at least ten years and who was given a qualifying medical
7 examination upon becoming a fire fighter that showed no evidence of
8 cancer. The presumption within subsection (1)(c) of this section shall
9 only apply to primary brain cancer, malignant melanoma, leukemia, non-
10 Hodgkin's lymphoma, bladder cancer, ureter cancer, and kidney cancer.

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

16 (5) Beginning July 1, 2003, this section does not apply to a fire
17 fighter who develops a heart or lung condition and who is a regular
18 user of tobacco products or who has a history of tobacco use. The
19 department, using existing medical research, shall define in rule the
20 extent of tobacco use that shall exclude a fire fighter from the
21 provisions of this section.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 3, 2002, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 3, 2002.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 1,
3 Second Substitute House Bill No. 2663 entitled:

4 "AN ACT Relating to occupational diseases affecting fire fighters;"

5 Second Substitute House Bill No. 2663 creates a rebuttable prima
6 facie presumption that certain heart problems, cancer and infectious
7 diseases are occupational diseases for fire fighters covered by
8 industrial insurance. This is a law that I strongly support.

9 However, the assumptions in section 1 of this bill have not been
10 clearly validated by science and medicine. Allowing those assumptions
11 to become law could have several unintended consequences, including
12 modifying the legal basis of the presumptions in section 2 of the bill,
13 providing an avenue for the allowance of disease claims in other
14 industries; and unnecessarily limiting the use of new scientific
15 information in administering occupational disease claims.

1 For these reasons, I have vetoed section 1 of Second Substitute
2 House Bill No. 2663.

3 With the exception of section 1, Second Substitute House Bill No.
4 2663 is approved."