
HOUSE BILL 1603

State of Washington 64th Legislature 2015 Regular Session

By Representatives Moeller, Van De Wege, Griffey, Riccelli,
Fitzgibbon, Pollet, and Goodman

Read first time 01/23/15. Referred to Committee on Labor.

1 AN ACT Relating to occupational diseases affecting public
2 employee fire investigators; and amending RCW 51.32.185.

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

4 **Sec. 1.** RCW 51.32.185 and 2007 c 490 s 2 are each amended to
5 read as follows:

6 (1) In the case of firefighters as defined in RCW
7 41.26.030(~~((+4))~~)(16) (a), (b), and (c) who are covered under Title 51
8 RCW and firefighters, including supervisors, employed on a full-time,
9 fully compensated basis as a firefighter of a private sector
10 employer's fire department that includes over fifty such
11 firefighters, and public employee fire investigators, there shall
12 exist a prima facie presumption that: (a) Respiratory disease; (b)
13 any heart problems, experienced within seventy-two hours of exposure
14 to smoke, fumes, or toxic substances, or experienced within twenty-
15 four hours of strenuous physical exertion due to firefighting
16 activities; (c) cancer; and (d) infectious diseases are occupational
17 diseases under RCW 51.08.140. This presumption of occupational
18 disease may be rebutted by a preponderance of the evidence. Such
19 evidence may include, but is not limited to, use of tobacco products,
20 physical fitness and weight, lifestyle, hereditary factors, and
21 exposure from other employment or nonemployment activities.

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

6 (3) The presumption established in subsection (1)(c) of this
7 section shall only apply to any active or former firefighter or fire
8 investigator who has cancer that develops or manifests itself after
9 the firefighter or fire investigator has served at least ten years
10 and who was given a qualifying medical examination upon becoming a
11 firefighter or fire investigator that showed no evidence of cancer.
12 The presumption within subsection (1)(c) of this section shall only
13 apply to prostate cancer diagnosed prior to the age of fifty, primary
14 brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma,
15 bladder cancer, ureter cancer, colorectal cancer, multiple myeloma,
16 testicular cancer, and kidney cancer.

17 (4) The presumption established in subsection (1)(d) of this
18 section shall be extended to any firefighter or fire investigator who
19 has contracted any of the following infectious diseases: Human
20 immunodeficiency virus/acquired immunodeficiency syndrome, all
21 strains of hepatitis, meningococcal meningitis, or mycobacterium
22 tuberculosis.

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

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

35 (7)(a) When a determination involving the presumption established
36 in this section is appealed to the board of industrial insurance
37 appeals and the final decision allows the claim for benefits, the
38 board of industrial insurance appeals shall order that all reasonable
39 costs of the appeal, including attorney fees and witness fees, be

1 paid to the firefighter or fire investigator or his or her
2 beneficiary by the opposing party.

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

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

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