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**SHB 1723** - H AMD **125**

By Representative Haler

**WITHDRAWN 03/02/2017**

 Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 51.32 RCW to read as follows:

(1) The definitions in this section apply throughout this section.

(a) "Hanford nuclear site" and "Hanford site" and "site" means the approximately five hundred sixty square miles in southeastern Washington state, excluding leased land, state-owned lands, and lands owned by the Bonneville Power Administration, which is owned by the United States and which is commonly known as the Hanford reservation.

(b) "United States department of energy Hanford site workers" and "Hanford site worker" means any person, including a contractor or subcontractor, who was engaged in the performance of work, either directly or indirectly, for the United States, regarding projects and contracts at the Hanford nuclear site and who worked on the site for at least one eight-hour shift while covered under this title.

(2)(a) For United States department of energy Hanford site workers, as defined in this section, who are covered under this title, there exists a prima facie presumption that the diseases and conditions listed in subsection (3) of this section are occupational diseases under RCW 51.08.140.

(b) The presumption may be rebutted by a preponderance of the evidence. Such 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.

(c) The presumption created under this section applies to claims filed on or after the effective date of this act, and where the injurious exposure occurred on or after January 1, 2007.

(d) For any claims arising from the presumption created under this section, the department of energy is the responsible employer and retains all liability. Costs for claims arising from the presumption created under this section may not be borne by the state fund.

(3) The prima facie presumption applies to the following:

(a) Acute and chronic beryllium disease;

(b) Respiratory disease;

(c) Any heart problems, experienced within seventy-two hours of exposure to fumes, toxic substances, or chemicals at the site;

(d) Cancer, subject to subsection (4) of this section; and

(e) Neurological disease.

(4)(a) The presumption established for cancer only applies to any active or former United States department of energy Hanford site worker who has cancer that develops or manifests itself and who was given a qualifying medical examination upon becoming a United States department of energy Hanford site worker that showed no evidence of cancer.

(b) The presumption applies to the following cancers:

(i) Leukemia;

(ii) Primary or secondary lung cancer, including bronchi and trachea, sarcoma of the lung, other than in situ lung cancer that is discovered during or after a postmortem examination, but not including mesothelioma or pleura cancer;

(iii) Primary or secondary bone cancer, including the bone form of solitary plasmacytoma, myelodysplastic syndrome, myelobibrosis with myeloid metaplasia, essential thrombocytosis or essential thrombocythemia, primary polycythemia vera (also called polycythemia rubra vera, P. vera, primary polycythemia, proliferative polycythemia, spent-phase polycythemia, or primary erythermia);

(iv) Primary or secondary renal (kidney) cancer;

(v) Lymphomas, other than Hodgkin's disease;

(vi) Waldenstrom's macroglubulinemia and mycosis fungoides; and

(vii) Primary cancer of the: (A) Thyroid; (B) male or female breast; (C) esophagus; (D) stomach; (E) pharynx, including all three areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The oropharynx includes base of tongue, soft palate and tonsils (the hypopharynx includes the pyriform sinus); (F) small intestine; (G) pancreas; (H) bile ducts, including ampulla of vater; (I) gall bladder; (J) salivary gland; (K) urinary bladder; (L) brain (malignancies only and not including intracranial enodocrine glands and other parts of the central nervous system or borderline astrocytomas); (M) colon, including rectum and appendix; (N) ovary, including fallopian tubes if both organs are involved; and (O) liver, except if cirrhosis or hepatitis B is indicated.

(5) The presumption established in this section extends to an applicable United States department of energy Hanford site worker following termination of service for the lifetime of that individual.

(6)(a) When a determination involving the presumption established in this section is appealed to the board of industrial insurance appeals and the final decision allows the claim of benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the worker or his or her beneficiary by the opposing party.

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of appeal, including attorneys' fees and witness fees, be paid to the worker or his or her beneficiary by the opposing party."

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|  |  EFFECT:  The striking amendment makes the following changes:* Removes the provision allowing persons with previously denied claims to file new claims for the same exposure;
* Removes the provision stating the presumption applies to decisions made after the effective date of the act, and instead provides that the presumption applies to claims filed on or after the effective date of the act and where the injurious exposure occurred on or after January 1, 2007;
* Provides that the presumption may be rebutted by a preponderance of the evidence (rather than by clear and convincing evidence); and
* Adds a provision stating that for claims arising from the presumption, the Department of Energy is the responsible employer and no costs may be borne by the state fund (a provision in the original bill).
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