
**Labor & Workplace Standards
Committee**

ESB 6213

Brief Description: Addressing the presumption of occupational disease for purposes of workers' compensation by adding medical conditions to the presumption and extending the presumption to certain publicly employed firefighters and investigators and law enforcement.

Sponsors: Senators Ranker, Conway, Hobbs, Keiser, Van De Wege, Palumbo, Hasegawa, Saldaña, Hunt, Walsh, Kuderer, Wellman and Fortunato.

Brief Summary of Engrossed Bill

- Makes the occupational disease presumptions for certain firefighters applicable to certain emergency medical technicians and public employee fire investigators.
- Adds additional cancers to the cancer occupational disease presumption.
- Creates an occupational disease presumption for heart problems and infectious diseases for law enforcement officers.

Hearing Date: 2/19/18

Staff: Joan Elgee (786-7106).

Background:

Under the state's industrial insurance laws, a worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to certain benefits. To prove an occupational disease, the worker must show that the disease arose "naturally and proximately" out of employment.

For firefighters who are members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) and certain private sector firefighters, there is a presumption that certain medical conditions are occupational diseases. Those conditions are: (1) respiratory disease; (2) heart problems; (3) specified cancers; and (4) infectious diseases. With respect to

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heart problems, the problems must be experienced within 72 hours of exposure to smoke, fumes, or toxic substances; or experienced within 24 hours of strenuous physical exertion due to firefighting activities. For cancers, the firefighter must have served at least 10 years before the cancer develops or manifests itself and received a qualifying medical examination (exam) upon becoming a firefighter that showed no evidence of cancer.

The presumption of occupational disease (presumption) may be rebutted by a preponderance of evidence, including: (1) use of tobacco products; (2) physical fitness and weight; (3) lifestyle; (4) hereditary factors; and (5) exposure from other employment or non-employment activities. In addition, 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.

Emergency medical technicians are included in the membership of the LEOFF as "firefighters" if they work on a full-time, fully compensated basis for certain public employers, and their duties include providing emergency medical services.

In an appeal of a presumption case to the Board of Industrial Insurance Appeals, if the claim is allowed, the opposing party must pay the reasonable costs of the appeal to the firefighter. A similar provision applies to appeals to court.

Summary of Bill:

Emergency medical technicians who are in the LEOFF and public employee fire investigators are included in the list of workers covered by the presumptions for firefighters. If these individuals became a firefighter or fire investigator before the effective date of the bill and the employer did not provide a medical exam, the exam requirement is satisfied if the firefighter or fire investigator receives an exam on or before July 1, 2019. If the firefighter or fire investigator is diagnosed with a covered cancer at this exam, the presumption applies. If the employer does not provide an exam of a firefighter or investigator, the presumption applies.

The following cancers are added to the presumption:

- mesothelioma;
- adenocarcinoma;
- stomach cancer;
- esophageal cancer;
- buccal cancer;
- pharynx cancer;
- non-melanoma skin cancer;
- breast cancer; and
- cervical cancer.

In addition, methicillin-resistant staphylococcus aureus (MRSA) is added to the list of infectious diseases.

A presumption is established for law enforcement officers that heart problems, under very similar limitations as for heart problems for firefighters, and infectious diseases are occupational

diseases. The strenuous physical exertion requirement for heart problems applies to exertion by a law enforcement officer in the line of duty.

The costs of the appeal provisions apply to fire investigators and law enforcement officers.

The Department must convene a work group by July 1, 2018 to recommend the policy and procedural options for amending first responder occupations and occupational diseases for application of a presumption. The work group must have representatives from State Fund employers, self-insured employers, and worker advocates along with public health professionals in the disciplines of occupational medicine, epidemiology, and industrial hygiene. The Department must report to the Legislature by December 1, 2019 on any consensus recommendations for legislation or rule-making.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 16, 2018.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.