
SENATE BILL 5477

State of Washington

65th Legislature

2017 Regular Session

By Senators Zeiger, Keiser, Miloscia, Kuderer, Fortunato, Palumbo, Hasegawa, Rivers, Pearson, Ranker, Van De Wege, and Conway

Read first time 01/25/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to adding medical conditions to the presumption
2 of occupational diseases and extending the presumption to certain
3 publicly employed firefighters and investigators and law enforcement;
4 and amending RCW 51.32.185.

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

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

8 (1)~~(a)~~ In the case of firefighters as defined in RCW
9 41.26.030~~((+4))~~ (16) (a), (b), ~~((and))~~ (c), and (h) who are covered
10 under Title 51 RCW and firefighters, including supervisors, employed
11 on a full-time, fully compensated basis as a firefighter of a private
12 sector employer's fire department that includes over fifty such
13 firefighters, and public employee fire investigators, there shall
14 exist a prima facie presumption that: ~~((+a))~~ (i) Respiratory
15 disease; ~~((+b))~~ (ii) any heart problems or strokes, experienced
16 within seventy-two hours of exposure to smoke, fumes, or toxic
17 substances, or experienced within twenty-four hours of strenuous
18 physical exertion due to firefighting activities; ~~((+e))~~ (iii)
19 cancer; and ~~((+d))~~ (iv) infectious diseases are occupational
20 diseases under RCW 51.08.140.

1 (b) In the case of law enforcement officers as defined in RCW
2 41.26.030(18) (b), (c), and (e) who are covered under Title 51 RCW,
3 there shall exist a prima facie presumption that: (i) Any heart
4 problems or stroke, experienced within seventy-two hours of exposure
5 to smoke, fumes, or toxic substances, or experienced within twenty-
6 four hours of strenuous physical exertion in the line of duty; and
7 (ii) infectious diseases are occupational diseases under RCW
8 51.08.140.

9 (c) This presumption of occupational disease established in (a)
10 and (b) of this subsection may be rebutted by a preponderance of the
11 evidence. Such evidence may include, but is not limited to, use of
12 tobacco products, physical fitness and weight, lifestyle, hereditary
13 factors, and exposure from other employment or nonemployment
14 activities.

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

20 (3) The presumption established in subsection (1)~~((e))~~ (a)(iii)
21 of this section shall only apply to any active or former firefighter
22 or fire investigator who has cancer that develops or manifests itself
23 after the firefighter or fire investigator has served at least ten
24 years and who was given a qualifying medical examination upon
25 becoming a firefighter or fire investigator that showed no evidence
26 of cancer. The presumption within subsection (1)~~((e))~~ (a)(iii) of
27 this section shall only apply to prostate cancer diagnosed prior to
28 the age of fifty, primary brain cancer, malignant melanoma, leukemia,
29 non-Hodgkin's lymphoma, bladder cancer, ureter cancer, colorectal
30 cancer, multiple myeloma, testicular cancer, ~~((and))~~ kidney cancer,
31 mesothelioma, adenocarcinoma, stomach cancer, esophageal cancer,
32 buccal cancer, pharynx cancer, nonmelanoma skin cancer, and breast
33 cancer.

34 (4) The presumption established in subsection (1)~~((d))~~ (a)(iv)
35 and (b)(ii) of this section shall be extended to any firefighter,
36 fire investigator, or law enforcement officer who has contracted any
37 of the following infectious diseases: Human immunodeficiency virus/
38 acquired immunodeficiency syndrome, all strains of hepatitis,
39 meningococcal meningitis, ~~((e))~~ mycobacterium tuberculosis, or
40 methicillin-resistant staphylococcus aureus.

1 (5) Beginning July 1, 2003, this section does not apply to a
2 firefighter, fire investigator, or law enforcement officer who
3 develops a heart or lung condition and who is a regular user of
4 tobacco products or who has a history of tobacco use. The department,
5 using existing medical research, shall define in rule the extent of
6 tobacco use that shall exclude a firefighter, fire investigator, or
7 law enforcement officer from the provisions of this section.

8 (6) For purposes of this section, "firefighting activities" means
9 fire suppression, fire prevention, fire investigation, emergency
10 medical services, rescue operations, hazardous materials response,
11 aircraft rescue, and training and other assigned duties related to
12 emergency response.

13 (7)(a) When a determination involving the presumption established
14 in this section is appealed to the board of industrial insurance
15 appeals and the final decision allows the claim for benefits, the
16 board of industrial insurance appeals shall order that all reasonable
17 costs of the appeal, including attorney fees and witness fees, be
18 paid to the firefighter, fire investigator, or law enforcement
19 officer or his or her beneficiary by the opposing party.

20 (b) When a determination involving the presumption established in
21 this section is appealed to any court and the final decision allows
22 the claim for benefits, the court shall order that all reasonable
23 costs of the appeal, including attorney fees and witness fees, be
24 paid to the firefighter, fire investigator, or law enforcement
25 officer or his or her beneficiary by the opposing party.

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

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