
SUBSTITUTE SENATE BILL 6214

State of Washington

65th Legislature

2018 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Conway, Hobbs, Keiser, Van De Wege, Palumbo, Hasegawa, Rolfes, Ranker, Mullet, Saldaña, Kuderer, and Wellman)

READ FIRST TIME 01/25/18.

1 AN ACT Relating to industrial insurance coverage for
2 posttraumatic stress disorders affecting law enforcement officers and
3 firefighters; amending RCW 51.08.142 and 51.32.185; and adding a new
4 section to chapter 51.08 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08
7 RCW to read as follows:

8 "Posttraumatic stress disorder" means a disorder that meets the
9 diagnostic criteria for posttraumatic stress specified by the
10 American psychiatric association in the diagnostic and statistics
11 manual of mental disorders, fifth edition, or in a later edition as
12 adopted by the department in rule.

13 **Sec. 2.** RCW 51.08.142 and 1988 c 161 s 16 are each amended to
14 read as follows:

15 (1) Except as provided in subsection (2) of this section, the
16 department shall adopt a rule pursuant to chapter 34.05 RCW that
17 claims based on mental conditions or mental disabilities caused by
18 stress do not fall within the definition of occupational disease in
19 RCW 51.08.140.

1 (2)(a) Except as provided in (b) and (c) of this subsection, the
2 rule adopted under subsection (1) of this section shall not apply to
3 occupational disease claims resulting from posttraumatic stress
4 disorders of firefighters as defined in RCW 41.26.030(16) (a), (b),
5 (c), and (h) and firefighters, including supervisors, employed on a
6 full-time, fully compensated basis as a firefighter of a private
7 sector employer's fire department that includes over fifty such
8 firefighters, and law enforcement officers as defined in RCW
9 41.26.030(18) (b), (c), and (e).

10 (b) For firefighters as defined in RCW 41.26.030(16) (a), (b),
11 (c), and (h) and firefighters, including supervisors, employed on a
12 full-time, fully compensated basis as a firefighter of a private
13 sector employer's fire department that includes over fifty such
14 firefighters, and law enforcement officers as defined in RCW
15 41.26.030(18) (b), (c), and (e) hired after the effective date of
16 this section, (a) of this subsection only applies if the firefighter
17 or law enforcement officer, as a condition of employment, has
18 submitted to a psychological examination administered by a
19 psychiatrist licensed in the state of Washington under chapter 18.71
20 RCW or a psychologist licensed in the state of Washington under
21 chapter 18.83 RCW that ruled out the presence of posttraumatic stress
22 disorder from preemployment exposures. If the employer does not
23 provide the psychological examination, (a) of this subsection
24 applies.

25 (c) Posttraumatic stress disorder for purposes of this subsection
26 (2) is not considered an occupational disease if the disorder is
27 directly attributed to disciplinary action, work evaluation, job
28 transfer, layoff, demotion, termination, or similar action taken in
29 good faith by an employer.

30 **Sec. 3.** RCW 51.32.185 and 2007 c 490 s 2 are each amended to
31 read as follows:

32 (1)(a) In the case of firefighters as defined in RCW
33 41.26.030(~~((4))~~) ~~(16)~~ (a), (b), and (c) who are covered under this
34 title (~~((51-RCW))~~) and firefighters, including supervisors, employed on a
35 full-time, fully compensated basis as a firefighter of a private
36 sector employer's fire department that includes over fifty such
37 firefighters, there shall exist a prima facie presumption that:
38 (~~((a))~~) (i) Respiratory disease; (~~((b))~~) (ii) any heart problems,
39 experienced within seventy-two hours of exposure to smoke, fumes, or

1 toxic substances, or experienced within twenty-four hours of
2 strenuous physical exertion due to firefighting activities; ~~((e))~~
3 (iii) cancer; and ~~((d))~~ (iv) infectious diseases are occupational
4 diseases under RCW 51.08.140.

5 (b) In the case of firefighters as defined in RCW 41.26.030(16)
6 (a), (b), (c), and (h) and firefighters, including supervisors,
7 employed on a full-time, fully compensated basis as a firefighter of
8 a private sector employer's fire department that includes over fifty
9 such firefighters, and law enforcement officers as defined in RCW
10 41.26.030(18) (b), (c), and (e), who are covered under this title,
11 there shall exist a prima facie presumption that posttraumatic stress
12 disorder is an occupational disease under RCW 51.08.140.

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

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

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

35 (4) The presumption established in subsection (1)~~((d))~~ (a)(iv)
36 of this section shall be extended to any firefighter who has
37 contracted any of the following infectious diseases: Human
38 immunodeficiency virus/acquired immunodeficiency syndrome, all
39 strains of hepatitis, meningococcal meningitis, or mycobacterium
40 tuberculosis.

1 (5) The presumption established in subsection (1)(b) of this
2 section only applies to active or former firefighters as defined in
3 RCW 41.26.030(16) (a), (b), (c), and (h) and firefighters, including
4 supervisors, employed on a full-time, fully compensated basis as a
5 firefighter of a private sector employer's fire department that
6 includes over fifty such firefighters, and law enforcement officers
7 as defined in RCW 41.26.030(18) (b), (c), and (e) who have
8 posttraumatic stress disorder that develops or manifests itself after
9 the individual has served at least ten years.

10 (6) If the employer does not provide the psychological exam as
11 specified in RCW 51.08.142 and the employee otherwise meets the
12 requirements for the presumption established in subsection (1)(b) of
13 this section, the presumption applies.

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

20 (~~(6)~~) (8) For purposes of this section, "firefighting
21 activities" means fire suppression, fire prevention, emergency
22 medical services, rescue operations, hazardous materials response,
23 aircraft rescue, and training and other assigned duties related to
24 emergency response.

25 (~~(7)~~) (9)(a) When a determination involving the presumption
26 established in this section is appealed to the board of industrial
27 insurance appeals and the final decision allows the claim for
28 benefits, the board of industrial insurance appeals shall order that
29 all reasonable costs of the appeal, including attorney fees and
30 witness fees, be paid to the firefighter or his or her beneficiary by
31 the opposing party.

32 (b) When a determination involving the presumption established in
33 this section is appealed to any court and the final decision allows
34 the claim for benefits, the court shall order that all reasonable
35 costs of the appeal, including attorney fees and witness fees, be
36 paid to the firefighter or his or her beneficiary by the opposing
37 party.

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

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