
HOUSE BILL 3331

State of Washington 60th Legislature 2008 Regular Session

By Representatives Conway, Darneille, Simpson, Wallace, and McIntire

Read first time 02/01/08. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to identifying methicillin-resistant staphylococcus
2 aureus as a presumptive occupational disease affecting firefighters;
3 and amending RCW 51.32.185.

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

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

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

1 limited to, use of tobacco products, physical fitness and weight,
2 lifestyle, hereditary factors, and exposure from other employment or
3 nonemployment activities.

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

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

19 (4) The presumption established in subsection (1)(d) of this
20 section shall be extended to any firefighter who has contracted any of
21 the following infectious diseases: Human immunodeficiency
22 virus/acquired immunodeficiency syndrome, all strains of hepatitis,
23 meningococcal meningitis, ~~((~~or~~))~~ mycobacterium tuberculosis, or
24 methicillin-resistant staphylococcus aureus.

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

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

1 of industrial insurance appeals shall order that all reasonable costs
2 of the appeal, including attorney fees and witness fees, be paid to the
3 firefighter or his or her beneficiary by the opposing party.

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

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