

**HB 1602** - H AMD 260

By Representative Bergquist

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 51.32.185 and 2007 c 490 s 2 are each amended to  
4 read as follows:

5 (1) In the case of firefighters as defined in RCW  
6 41.26.030(~~((4))~~) (16) (a), (b), and (c) who are covered under Title  
7 51 RCW and firefighters, including supervisors, employed on a full-  
8 time, fully compensated basis as a firefighter of a private sector  
9 employer's fire department that includes over fifty such  
10 firefighters, there shall exist a prima facie presumption that: (a)  
11 Respiratory disease; (b) any heart problems, experienced within  
12 seventy-two hours of exposure to smoke, fumes, or toxic substances,  
13 or experienced within twenty-four hours of strenuous physical  
14 exertion due to firefighting activities; (c) cancer; and (d)  
15 infectious diseases are occupational diseases under RCW 51.08.140.  
16 In the case of firefighters as defined in RCW 41.26.030(h)(emergency  
17 medical technicians enrolled in or who were eligible to enroll in  
18 the law enforcement officers and fire fighters' retirement system as  
19 provided under section 1, chapter 459, Laws of 2005), there shall  
20 exist a prima facie presumption that respiratory disease, bladder  
21 cancer, and infectious diseases are occupational diseases under RCW  
22 51.08.140. (~~This~~) The presumption of occupational disease may be  
23 rebutted by a preponderance of the evidence. Such evidence may  
24 include, but is not limited to, use of tobacco products, physical  
25 fitness and weight, lifestyle, hereditary factors, and exposure from  
26 other employment or nonemployment activities.

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

6 (3) The presumption established in subsection (1)(c) of this  
7 section regarding cancer, and for firefighters as defined in RCW  
8 41.26.030(h) regarding bladder cancer, shall only apply to any  
9 active or former firefighter who has cancer that develops or  
10 manifests itself after the firefighter has served at least ten years  
11 and who was given a qualifying medical examination upon becoming a  
12 firefighter that showed no evidence of cancer. The presumption  
13 within subsection (1)(c) of this section shall only apply to  
14 prostate cancer diagnosed prior to the age of fifty, primary brain  
15 cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma,  
16 bladder cancer, ureter cancer, colorectal cancer, multiple myeloma,  
17 testicular cancer, and kidney cancer.

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

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

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

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

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

14 (c) When reasonable costs of the appeal must be paid by the  
15 department under this section in a state fund case, the costs shall  
16 be paid from the accident fund and charged to the costs of the  
17 claim."

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EFFECT: Modifies the original bill to limit the occupational  
disease presumption statute, as it applies to certain emergency  
medical technicians (EMTs), to respiratory disease, bladder cancer,  
and infectious diseases.

Makes explicit that the act applies to EMTs enrolled in, or who were  
eligible to enroll in, the Law Enforcement Officers and Fire  
Fighters' system (LEOFF), by referencing the 2005 legislation that  
authorized EMTs who were members of PERS to transfer to the LEOFF  
system.

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