

HB 1602 - H AMD 258

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), there
17 shall exist a prima facie presumption that respiratory disease,
18 bladder cancer, and infectious diseases are occupational diseases
19 under RCW 51.08.140. (~~This~~) The presumption of occupational
20 disease may be rebutted by a preponderance of the evidence. Such
21 evidence may include, but is not limited to, use of tobacco
22 products, physical fitness and weight, lifestyle, hereditary
23 factors, and exposure from other employment or nonemployment
24 activities.

25 (2) The presumptions established in subsection (1) of this
26 section shall be extended to an applicable member following
27 termination of service for a period of three calendar months for

1 each year of requisite service, but may not extend more than sixty
2 months following the last date of employment.

3 (3) The presumption established in subsection (1)(c) of this
4 section regarding cancer, and for firefighters as defined in RCW
5 41.26.030(h) regarding bladder cancer, shall only apply to any
6 active or former firefighter who has cancer that develops or
7 manifests itself after the firefighter has served at least ten years
8 and who was given a qualifying medical examination upon becoming a
9 firefighter that showed no evidence of cancer. The presumption
10 within subsection (1)(c) of this section shall only apply to
11 prostate cancer diagnosed prior to the age of fifty, primary brain
12 cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma,
13 bladder cancer, ureter cancer, colorectal cancer, multiple myeloma,
14 testicular cancer, and kidney cancer.

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

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

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

31 (7)(a) When a determination involving the presumption
32 established in this section is appealed to the board of industrial
33 insurance appeals and the final decision allows the claim for
34 benefits, the board of industrial insurance appeals shall order that

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

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

10 (c) When reasonable costs of the appeal must be paid by the
11 department under this section in a state fund case, the costs shall
12 be paid from the accident fund and charged to the costs of the
13 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, to respiratory disease, bladder cancer, and
infectious diseases.

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