

# HOUSE BILL REPORT

## HB 2806

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**As Passed House:**  
February 15, 2016

**Title:** An act relating to the presumption of occupational diseases for purposes of industrial insurance.

**Brief Description:** Addressing the presumption of occupational diseases for purposes of industrial insurance.

**Sponsors:** Representatives Kuderer, Gregerson, Stambaugh, Griffey, Hayes, Ormsby, Van De Wege, Sawyer, Moeller, Zeiger, Riccelli, Stokesbary, Tarleton, Fitzgibbon, Reykdal, Morris, Pollet, Goodman and Bergquist.

**Brief History:**

**Committee Activity:**

Labor & Workplace Standards: 2/1/16, 2/2/16 [DP].

**Floor Activity:**

Passed House: 2/15/16, 62-35.

**Brief Summary of Bill**

- Adds certain emergency medical technicians and public employee fire investigators to the list of workers covered by the occupational disease presumption for purposes of industrial insurance.
- Adds strokes occurring under certain conditions, methicillin-resistant staphylococcus aureus (MRSA), and several cancers to the list of diseases presumed to be occupational.

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass. Signed by 4 members: Representatives Sells, Chair; Gregerson, Vice Chair; Moeller and Ormsby.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Manweller, Ranking Minority Member; McCabe.

**Staff:** Trudes Tango (786-7384).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

Under the state's Industrial Insurance Act (Act), a worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to certain benefits. To prove an occupational disease, the worker must show that the disease arose "naturally and proximately" out of employment.

For firefighters who are members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) and certain private sector firefighters, there is a presumption that certain medical conditions are occupational diseases. Those conditions are: respiratory disease; heart problems; specified cancers; and infectious diseases. With respect to heart problems, the problems must be experienced within 72 hours of exposure to smoke, fumes, or toxic substances; or experienced within 24 hours of strenuous physical exertion due to firefighting activities.

The presumption of occupational disease may be rebutted by a preponderance of evidence, including, but not limited to: use of tobacco products; physical fitness and weight; lifestyle; hereditary factors; and exposure from other employment or non-employment activities. In addition, the presumption does not apply to a firefighter who develops a heart or lung condition and who is a regular user of tobacco products or who has a history of tobacco use.

Emergency medical technicians are included in the membership of the LEOFF if they work on a full-time, fully compensated basis for public employers, including cities, towns, counties, districts, municipal corporations, general authority law enforcement agencies, or four-year institutions of higher education that had working fire departments before January 1, 1996.

## **Summary of Bill:**

Legislative findings are made, including stating that: (1) the number of firefighters stricken with cancer is rising; (2) scientific studies demonstrate that firefighters are more likely than the general public to become afflicted with various cancers as a direct result of workplace exposure suffered while combating fires; and (3) recent scientific studies provide evidence that cancers not currently covered by the occupational disease presumption should be covered because firefighters are more likely to contract certain cancers and diseases.

Emergency medical technicians who are in the LEOFF and public employee fire investigators are included in the list of workers covered by the occupational disease presumption.

The following cancers are added to the occupational disease presumption:

- mesothelioma;
- adenocarcinoma;
- stomach cancer;
- esophageal cancer;
- buccal cancer;
- pharynx cancer;
- nonmelanoma skin cancer; and

- breast cancer.

In addition, methicillin-resistant staphylococcus aureus (MRSA) is added to the list of infectious diseases, and stroke is included under the same limitations as heart problems.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) These workers put their lives on the line and expose themselves to numerous health risks. Emergency medical technicians and fire investigators are exposed to the same toxins as firefighters. Investigators are often on the scene longer than firefighters. Just because the fire is out, does not mean the danger to exposure is gone. Creating a presumption is not just about the workers' compensation claim and what is covered. Employers are already liable for the claim. The presumption is about who has the burden of proof, and without the presumption the burden is on the employee who is already struck down with a serious illness. They should not have to worry about whether they will get coverage or not. This bill should be expanded to law enforcement officers as well.

(Opposed) None.

(Other) There needs to be more scientific evidence to justify expanding the list of diseases. Employers are concerned with the increasing costs of the system. For the last few years, employers' rates have gone up. All the diseases that are listed in the bill are already covered, but there's just not a presumption created for them. Expanding the categories of illnesses was not part of the discussion in the interim workgroup. This presumptive occupational disease statute has had a long history of employers and employees working together about what to include in the statute.

**Persons Testifying:** (In support) Representative Kuderer, prime sponsor; Michael White, Washington State Council of Fire Fighters; Ron Meyers; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Other) Candice Bock, Association of Washington Cities; and Christine Brewer, Washington Self-Insurers Association.

**Persons Signed In To Testify But Not Testifying:** None.