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**SHB 1723** - H AMD **178**

By Representative Manweller

**NOT ADOPTED 03/02/2017**

 Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 51.32 RCW to read as follows:

(1) The definitions in this section apply throughout this section.

(a) "Hanford nuclear site" and "Hanford site" and "site" means the approximately five hundred sixty square miles in southeastern Washington state, excluding leased land, state-owned lands, and lands owned by the Bonneville Power Administration, which is owned by the United States and which is commonly known as the Hanford reservation.

(b) "United States department of energy Hanford site workers" and "Hanford site worker" means any person, including a contractor or subcontractor, who was engaged in the performance of work, either directly or indirectly, for the United States, regarding projects and contracts at the Hanford nuclear site and who, while covered under this title, worked on the site for a length of time that a preponderance of medical evidence shows is more likely than not to result in the development of the disease or condition alleged.

(2)(a) For United States department of energy Hanford site workers, as defined in this section, who are covered under this title, there exists a prima facie presumption that the diseases and conditions listed in subsection (3) of this section are occupational diseases under RCW 51.08.140.

(b) The presumption established in this section applies to claims filed on or after the effective date of this section.

(c) The presumption may be rebutted by a preponderance of the evidence. Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(3) The prima facie presumption applies to the following:

(a) Acute and chronic beryllium disease;

(b) Any heart problems, experienced within seventy-two hours of exposure to fumes, toxic substances, or chemicals at the site;

(c) Cancer, subject to subsection (4) of this section; and

(d) Neurological disease of the brain, which excludes neurological conditions of the spine and other nerves.

(4)(a) The presumption established for cancer only applies to any active or former United States department of energy Hanford site worker who has cancer that develops or manifests itself and who was given a qualifying medical examination upon becoming a United States department of energy Hanford site worker that showed no evidence of cancer.

(b) The presumption applies to the following cancers:

(i) Primary or secondary renal (kidney) cancer;

(ii) Waldenstrom's macroglubulinemia and mycosis fungoides; and

(iii) Primary cancer of the: (A) Esophagus; (B) stomach; (C) pharynx, including all three areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The oropharynx includes base of tongue, soft palate and tonsils (the hypopharynx includes the pyriform sinus); (D) small intestine; (E) pancreas; (F) bile ducts, including ampulla of vater; (G) gall bladder; (H) salivary gland; (I) urinary bladder; and (J) liver, except if cirrhosis or hepatitis B is indicated.

(5) The presumption established in this section extends to an applicable United States department of energy Hanford site worker following termination of service for the lifetime of that individual.

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

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of appeal, including attorneys' fees and witness fees, be paid to the worker or his or her beneficiary by the opposing party."

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|  | * EFFECT:   Specifies that the presumption applies to workers who, while covered under the Industrial Insurance Act, worked on the site for a length of time that a preponderance of medical evidence shows is more likely than not to result in the development of the disease or condition alleged (rather than to workers who worked at least one eight-hour shift).
* Removes the provision allowing workers or survivors of workers whose claims have been previously denied to file new claims for the same exposure.
* Provides that the presumption applies to claims filed on or after the effective date of the bill (rather than to decisions made on or after the effective date of the bill without regard to the date of the last injurious exposure or claim filing).
* Provides that the presumption may be rebutted by a preponderance of evidence (rather than clear and convincing evidence).
* Removes respiratory disease, leukemia, lung cancer, bone cancer, lymphomas, thyroid cancer, breast cancer, brain cancer, colon cancer, and ovarian cancer.
* Modifies neurological disease to specify neurological disease of the brain, which excludes neurological conditions of the spine and other nerves.
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