

**SHB 1723 - H AMD 178**

By Representative Manweller

NOT ADOPTED 03/02/2017

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

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4 "NEW SECTION. **Sec. 1.** A new section is added to chapter 51.32  
5 RCW to read as follows:

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

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

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

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

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

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

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

9 (a) Acute and chronic beryllium disease;

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

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

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

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

21 (b) The presumption applies to the following cancers:

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

23 (ii) Waldenstrom's macroglobulinemia and mycosis fungoides; and

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

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

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

10 (b) When a determination involving the presumption established  
11 in this section is appealed to any court and the final decision  
12 allows the claim for benefits, the court shall order that all  
13 reasonable costs of appeal, including attorneys' fees and witness  
14 fees, be paid to the worker or his or her beneficiary by the  
15 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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