

FINAL BILL REPORT

SHB 1723

C 9 L 18

Synopsis as Enacted

Brief Description: Creating the presumption of occupational disease for certain employees at the United States department of energy Hanford site.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Haler, Riccelli, Sells, Gregerson, Ormsby, Doglio and Pollet).

House Committee on Labor & Workplace Standards
Senate Committee on Commerce, Labor & Sports
Senate Committee on Labor & Commerce

Background:

Under the state's Industrial Insurance Act (Act), employers must insure through the State Fund administered by the Department of Labor and Industries (L&I) or may self-insure if qualified. Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to benefits. Depending on the disability, workers are entitled to medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities.

To prove an occupational disease, the worker must show that the disease arose "naturally and proximately" out of employment. For certain firefighters, there is a prima facie presumption that the following medical conditions are occupational diseases: respiratory disease; certain heart problems; specified cancers; and infectious diseases.

The presumption of occupational disease for firefighters 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 nonemployment 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.

In occupational disease cases where the worker's exposure may have occurred with multiple employers, the employer covered under industrial insurance at the time of the last injurious exposure to the substance or hazard is the liable employer.

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.

Through a special agreement with the L&I, the United States Department of Energy (DOE) operates as a self-insured employer for the purposes of providing coverage for workers of contractors at the Hanford Nuclear Reservation. In addition, there are federal programs that provide compensation to certain DOE workers.

Summary:

A prima facie presumption of occupational disease is created for Hanford site workers. A Hanford site worker is any person, including a contractor or subcontractor, who was engaged in the direct and indirect performance of work for the United States on projects and contracts at the Hanford nuclear site and who worked on the site at the 200 east, 300 west, 300 area, environmental restoration disposal facility site, central plateau, or the river corridor locations for at least one 8-hour shift while covered under the state's industrial insurance laws.

The presumption may be rebutted by clear and convincing evidence, including the use of tobacco, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

The prima facie presumption applies to the following diseases and conditions:

- respiratory disease;
- beryllium sensitization and acute and chronic beryllium disease;
- heart problems, experienced within 72 hours of exposure to fumes, toxic substances, or chemicals at the site;
- certain cancers as specified; and
- neurological disease.

Regarding cancer, the presumption only applies to a worker who has cancer that develops or manifests and who was given a qualifying medical examination upon becoming a Hanford site worker that showed no evidence of cancer. The presumption applies to the following cancers:

- leukemia;
- primary or secondary lung cancer, including bronchi and trachea, sarcoma of the lung, other than in situ lung cancer discovered during or after a postmortem examination, but not including mesothelioma or pleura cancer;
- primary or secondary bone cancer;
- primary or secondary renal cancer;
- lymphomas, other than Hodgkin's disease;
- Waldenstrom's macroglobulinemia and mycosis fungoides; and
- primary cancer of the:
 - thyroid;
 - male or female breast;
 - esophagus;
 - stomach;
 - pharynx;
 - small intestine;
 - pancreas;
 - bile ducts;
 - gall bladder;

- salivary gland;
- urinary bladder;
- brain (with certain limitations);
- colon;
- ovary, including fallopian tubes if both organs are involved; and
- liver (except if cirrhosis or hepatitis B is indicated).

The presumption extends to the worker following termination of service for the lifetime of that individual.

A worker, or survivor of a worker who has died from one of the conditions or diseases, whose claim was denied by the L&I, the Board of Industrial Insurance Appeals, or a court, may file a new claim for the same exposure and contended condition or disease. The presumption applies to decisions made after the effective date of the act, without regard to the date of last injurious exposure or claim filing.

By December 1, 2023, the L&I must report to the Legislature the number of claims filed in the previous five years that included the presumption.

Votes on Final Passage:

House	69	29	
House	76	22	
Senate	35	14	(Senate amended)
House	74	21	(House concurred)

Effective: June 7, 2018