
HOUSE BILL 2633

State of Washington

65th Legislature

2018 Regular Session

By Representatives Doglio, Sawyer, Griffey, Irwin, Reeves, Fitzgibbon, Stambaugh, Stonier, Stokesbary, Gregerson, Appleton, Valdez, Ortiz-Self, Peterson, Lytton, Wylie, Macri, Fey, Tarleton, Hudgins, Ryu, McBride, Morris, Pollet, Sells, Slatter, Kloba, Bergquist, Goodman, McDonald, Santos, Frame, and Stanford

Read first time 01/11/18. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to the presumption of occupational disease for
2 purposes of workers' compensation by adding medical conditions to the
3 presumption and extending the presumption to certain publicly
4 employed firefighters and investigators and law enforcement; and
5 amending RCW 51.32.185.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 51.32.185 and 2007 c 490 s 2 are each amended to
8 read as follows:

9 (1)(a) In the case of firefighters as defined in RCW
10 41.26.030(~~((+4))~~) (16) (a), (b), (~~((and))~~) (c), and (h) who are covered
11 under Title 51 RCW and firefighters, including supervisors, employed
12 on a full-time, fully compensated basis as a firefighter of a private
13 sector employer's fire department that includes over fifty such
14 firefighters, and public employee fire investigators, there shall
15 exist a prima facie presumption that: (~~((+a))~~) (i) Respiratory
16 disease; (~~((+b))~~) (ii) any heart problems or strokes, experienced
17 within seventy-two hours of exposure to smoke, fumes, or toxic
18 substances, or experienced within twenty-four hours of strenuous
19 physical exertion due to firefighting activities; (~~((+e))~~) (iii)
20 cancer; and (~~((+d))~~) (iv) infectious diseases are occupational
21 diseases under RCW 51.08.140.

1 (b) In the case of law enforcement officers as defined in RCW
2 41.26.030(18) (b), (c), and (e) who are covered under Title 51 RCW,
3 there shall exist a prima facie presumption that: (i) Any heart
4 problems or strokes, experienced within seventy-two hours of exposure
5 to smoke, fumes, or toxic substances, or experienced within twenty-
6 four hours of strenuous physical exertion in the line of duty; and
7 (ii) infectious diseases are occupational diseases under RCW
8 51.08.140.

9 (c) This presumption of occupational disease established in (a)
10 and (b) of this subsection may be rebutted by a preponderance of the
11 evidence. Such evidence may include, but is not limited to, use of
12 tobacco products, physical fitness and weight, lifestyle, hereditary
13 factors, and exposure from other employment or nonemployment
14 activities.

15 (2) The presumptions established in subsection (1) of this
16 section shall be extended to an applicable member following
17 termination of service for a period of three calendar months for each
18 year of requisite service, but may not extend more than sixty months
19 following the last date of employment.

20 (3)(a) The presumption established in subsection (1)((+e))
21 (a)(iii) of this section shall only apply to any active or former
22 firefighter or fire investigator who:

23 (i) Has cancer that develops or manifests itself after the
24 firefighter or fire investigator has served at least ten years; and
25 ((who))

26 (ii)(A) Subject to (a)(ii)(B) of this subsection, was given a
27 qualifying medical examination upon becoming a firefighter or fire
28 investigator that showed no evidence of cancer. ((The presumption
29 within subsection (1)(c) of this section shall only apply to))

30 (B) If a firefighter as defined in RCW 41.26.030(16)(h) who
31 became a firefighter before July 1, 2018, or fire investigator who
32 became a fire investigator before July 1, 2018, did not receive a
33 qualifying medical examination upon becoming a firefighter or fire
34 investigator, the firefighter or fire investigator satisfies the
35 qualifying medical examination requirement if the firefighter or fire
36 investigator received a qualifying medical examination on or before
37 July 1, 2019. In addition, if the firefighter or fire investigator is
38 diagnosed with a cancer listed in (b) of this subsection at the time
39 of the qualifying medical examination and otherwise meets the

1 requirements of this section, the presumption established in
2 subsection (1)(a)(iii) of this section applies.

3 (b) The presumption established in subsection (1)(a)(iii) of this
4 section shall only apply to the following cancers: Prostate cancer
5 diagnosed prior to the age of fifty, primary brain cancer, malignant
6 melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter
7 cancer, colorectal cancer, multiple myeloma, testicular cancer,
8 ((and)) kidney cancer, mesothelioma, adenocarcinoma, stomach cancer,
9 esophageal cancer, buccal cancer, pharynx cancer, nonmelanoma skin
10 cancer, breast cancer, and cervical cancer.

11 (4) The presumption established in subsection (1)((+d)) (a)(iv)
12 and (b)(ii) of this section shall be extended to any firefighter,
13 fire investigator, or law enforcement officer who has contracted any
14 of the following infectious diseases: Human immunodeficiency virus/
15 acquired immunodeficiency syndrome, all strains of hepatitis,
16 meningococcal meningitis, ((or)) mycobacterium tuberculosis, or
17 methicillin-resistant staphylococcus aureus.

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

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

30 (7)(a) When a determination involving the presumption established
31 in this section is appealed to the board of industrial insurance
32 appeals and the final decision allows the claim for benefits, the
33 board of industrial insurance appeals shall order that all reasonable
34 costs of the appeal, including attorney fees and witness fees, be
35 paid to the firefighter, fire investigator, or law enforcement
36 officer or his or her beneficiary by the opposing party.

37 (b) When a determination involving the presumption established in
38 this section is appealed to any court and the final decision allows
39 the claim for benefits, the court shall order that all reasonable
40 costs of the appeal, including attorney fees and witness fees, be

1 paid to the firefighter, fire investigator, or law enforcement
2 officer or his or her beneficiary by the opposing party.

3 (c) When reasonable costs of the appeal must be paid by the
4 department under this section in a state fund case, the costs shall
5 be paid from the accident fund and charged to the costs of the claim.

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