

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 6214**

65th Legislature  
2018 Regular Session

Passed by the Senate February 9, 2018  
Yeas 47 Nays 0

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**President of the Senate**

Passed by the House February 28, 2018  
Yeas 91 Nays 7

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6214** as passed by Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 6214**

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Passed Legislature - 2018 Regular Session

**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Conway, Hobbs, Keiser, Van De Wege, Palumbo, Hasegawa, Rolfes, Ranker, Mullet, Saldaña, Kuderer, and Wellman)

READ FIRST TIME 01/25/18.

1       AN    ACT    Relating   to   industrial   insurance   coverage   for  
2   posttraumatic stress disorders affecting law enforcement officers and  
3   firefighters; amending RCW 51.08.142 and 51.32.185; and adding a new  
4   section to chapter 51.08 RCW.

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

6       NEW SECTION.   **Sec. 1.**   A new section is added to chapter 51.08  
7   RCW to read as follows:

8       "Posttraumatic stress disorder" means a disorder that meets the  
9   diagnostic criteria for posttraumatic stress specified by the  
10   American psychiatric association in the diagnostic and statistics  
11   manual of mental disorders, fifth edition, or in a later edition as  
12   adopted by the department in rule.

13       **Sec. 2.**   RCW 51.08.142 and 1988 c 161 s 16 are each amended to  
14   read as follows:

15       (1) Except as provided in subsection (2) of this section, the  
16   department shall adopt a rule pursuant to chapter 34.05 RCW that  
17   claims based on mental conditions or mental disabilities caused by  
18   stress do not fall within the definition of occupational disease in  
19   RCW 51.08.140.

1 (2)(a) Except as provided in (b) and (c) of this subsection, the  
2 rule adopted under subsection (1) of this section shall not apply to  
3 occupational disease claims resulting from posttraumatic stress  
4 disorders of firefighters as defined in RCW 41.26.030(16) (a), (b),  
5 (c), and (h) and firefighters, including supervisors, employed on a  
6 full-time, fully compensated basis as a firefighter of a private  
7 sector employer's fire department that includes over fifty such  
8 firefighters, and law enforcement officers as defined in RCW  
9 41.26.030(18) (b), (c), and (e).

10 (b) For firefighters as defined in RCW 41.26.030(16) (a), (b),  
11 (c), and (h) and firefighters, including supervisors, employed on a  
12 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 law enforcement officers as defined in RCW  
15 41.26.030(18) (b), (c), and (e) hired after the effective date of  
16 this section, (a) of this subsection only applies if the firefighter  
17 or law enforcement officer, as a condition of employment, has  
18 submitted to a psychological examination administered by a  
19 psychiatrist licensed in the state of Washington under chapter 18.71  
20 RCW or a psychologist licensed in the state of Washington under  
21 chapter 18.83 RCW that ruled out the presence of posttraumatic stress  
22 disorder from preemployment exposures. If the employer does not  
23 provide the psychological examination, (a) of this subsection  
24 applies.

25 (c) Posttraumatic stress disorder for purposes of this subsection  
26 (2) is not considered an occupational disease if the disorder is  
27 directly attributed to disciplinary action, work evaluation, job  
28 transfer, layoff, demotion, termination, or similar action taken in  
29 good faith by an employer.

30 **Sec. 3.** RCW 51.32.185 and 2007 c 490 s 2 are each amended to  
31 read as follows:

32 (1)(a) In the case of firefighters as defined in RCW  
33 41.26.030(~~((4))~~) ~~(16)~~ (a), (b), and (c) who are covered under this  
34 title (~~((51-RCW))~~) and firefighters, including supervisors, employed on a  
35 full-time, fully compensated basis as a firefighter of a private  
36 sector employer's fire department that includes over fifty such  
37 firefighters, there shall exist a prima facie presumption that:  
38 (~~((a))~~) (i) Respiratory disease; (~~((b))~~) (ii) any heart problems,  
39 experienced within seventy-two hours of exposure to smoke, fumes, or

1 toxic substances, or experienced within twenty-four hours of  
2 strenuous physical exertion due to firefighting activities; ~~((e))~~  
3 (iii) cancer; and ~~((d))~~ (iv) infectious diseases are occupational  
4 diseases under RCW 51.08.140.

5 (b) In the case of firefighters as defined in RCW 41.26.030(16)  
6 (a), (b), (c), and (h) and firefighters, including supervisors,  
7 employed on a full-time, fully compensated basis as a firefighter of  
8 a private sector employer's fire department that includes over fifty  
9 such firefighters, and law enforcement officers as defined in RCW  
10 41.26.030(18) (b), (c), and (e), who are covered under this title,  
11 there shall exist a prima facie presumption that posttraumatic stress  
12 disorder is an occupational disease under RCW 51.08.140.

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

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

24 (3) The presumption established in subsection (1)~~((e))~~ (a)(iii)  
25 of this section shall only apply to any active or former firefighter  
26 who has cancer that develops or manifests itself after the  
27 firefighter has served at least ten years and who was given a  
28 qualifying medical examination upon becoming a firefighter that  
29 showed no evidence of cancer. The presumption within subsection (1)  
30 ~~((e))~~ (a)(iii) of this section shall only apply to prostate cancer  
31 diagnosed prior to the age of fifty, primary brain cancer, malignant  
32 melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter  
33 cancer, colorectal cancer, multiple myeloma, testicular cancer, and  
34 kidney cancer.

35 (4) The presumption established in subsection (1)~~((d))~~ (a)(iv)  
36 of this section shall be extended to any firefighter who has  
37 contracted any of the following infectious diseases: Human  
38 immunodeficiency virus/acquired immunodeficiency syndrome, all  
39 strains of hepatitis, meningococcal meningitis, or mycobacterium  
40 tuberculosis.

1       (5) The presumption established in subsection (1)(b) of this  
2 section only applies to active or former firefighters as defined in  
3 RCW 41.26.030(16) (a), (b), (c), and (h) and firefighters, including  
4 supervisors, employed on a full-time, fully compensated basis as a  
5 firefighter of a private sector employer's fire department that  
6 includes over fifty such firefighters, and law enforcement officers  
7 as defined in RCW 41.26.030(18) (b), (c), and (e) who have  
8 posttraumatic stress disorder that develops or manifests itself after  
9 the individual has served at least ten years.

10       (6) If the employer does not provide the psychological exam as  
11 specified in RCW 51.08.142 and the employee otherwise meets the  
12 requirements for the presumption established in subsection (1)(b) of  
13 this section, the presumption applies.

14       (7) Beginning July 1, 2003, this section does not apply to a  
15 firefighter who develops a heart or lung condition and who is a  
16 regular user of tobacco products or who has a history of tobacco use.  
17 The department, using existing medical research, shall define in rule  
18 the extent of tobacco use that shall exclude a firefighter from the  
19 provisions of this section.

20       ~~((6))~~ (8) For purposes of this section, "firefighting  
21 activities" means fire suppression, fire prevention, emergency  
22 medical services, rescue operations, hazardous materials response,  
23 aircraft rescue, and training and other assigned duties related to  
24 emergency response.

25       ~~((7))~~ (9)(a) When a determination involving the presumption  
26 established in this section is appealed to the board of industrial  
27 insurance appeals and the final decision allows the claim for  
28 benefits, the board of industrial insurance appeals shall order that  
29 all reasonable costs of the appeal, including attorney fees and  
30 witness fees, be paid to the firefighter or his or her beneficiary by  
31 the opposing party.

32       (b) When a determination involving the presumption established in  
33 this section is appealed to any court and the final decision allows  
34 the claim for benefits, the court shall order that all reasonable  
35 costs of the appeal, including attorney fees and witness fees, be  
36 paid to the firefighter or his or her beneficiary by the opposing  
37 party.

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

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