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**SENATE BILL 5507**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Keiser and Conway; by request of Attorney General

Read first time 01/23/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to amending the application of the occupational  
2 disease presumption for cancer for Hanford site workers; and amending  
3 RCW 51.32.187.

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

5 **Sec. 1.** RCW 51.32.187 and 2018 c 9 s 1 are each amended to read  
6 as follows:

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

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

14 (b) "United States department of energy Hanford site workers" and  
15 "Hanford site worker" means any person, including a contractor or  
16 subcontractor, who was engaged in the performance of work, either  
17 directly or indirectly, for the United States, regarding projects and  
18 contracts at the Hanford nuclear site and who worked on the site at  
19 the two hundred east, two hundred west, three hundred area,  
20 environmental restoration disposal facility site, central plateau, or

1 the river corridor locations for at least one eight-hour shift while  
2 covered under this title.

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

8 (b) This presumption of occupational disease may be rebutted by  
9 clear and convincing evidence. Such evidence may include, but is not  
10 limited to, use of tobacco products, physical fitness and weight,  
11 lifestyle, hereditary factors, and exposure from other employment or  
12 nonemployment activities.

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

14 (a) Respiratory disease;

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

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

18 (d) Beryllium sensitization, and acute and chronic beryllium  
19 disease; and

20 (e) Neurological disease.

21 (4) (a) The presumption established for cancer only applies to any  
22 active or former United States department of energy Hanford site  
23 worker who has cancer that develops or manifests itself and who  
24 either was given a qualifying medical examination upon becoming a  
25 United States department of energy Hanford site worker that showed no  
26 evidence of cancer or was not given a qualifying medical examination  
27 because a qualifying medical examination was not required.

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

29 (i) Leukemia;

30 (ii) Primary or secondary lung cancer, including bronchi and  
31 trachea, sarcoma of the lung, other than in situ lung cancer that is  
32 discovered during or after a postmortem examination, but not  
33 including mesothelioma or pleura cancer;

34 (iii) Primary or secondary bone cancer, including the bone form  
35 of solitary plasmacytoma, myelodysplastic syndrome, myelofibrosis  
36 with myeloid metaplasia, essential thrombocytosis or essential  
37 thrombocythemia, primary polycythemia vera (also called polycythemia  
38 rubra vera, P. vera, primary polycythemia, proliferative  
39 polycythemia, spent-phase polycythemia, or primary erythremia);

40 (iv) Primary or secondary renal (kidney) cancer;

1 (v) Lymphomas, other than Hodgkin's disease;  
2 (vi) Waldenstrom's macroglobulinemia and mycosis fungoides; and  
3 (vii) Primary cancer of the: (A) Thyroid; (B) male or female  
4 breast; (C) esophagus; (D) stomach; (E) pharynx, including all three  
5 areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The  
6 oropharynx includes base of tongue, soft palate and tonsils (the  
7 hypopharynx includes the pyriform sinus); (F) small intestine; (G)  
8 pancreas; (H) bile ducts, including ampulla of Vater; (I) gall  
9 bladder; (J) salivary gland; (K) urinary bladder; (L) brain  
10 (malignancies only and not including intracranial endocrine glands  
11 and other parts of the central nervous system or borderline  
12 astrocytomas); (M) colon, including rectum and appendix; (N) ovary,  
13 including fallopian tubes if both organs are involved; and (O) liver,  
14 except if cirrhosis or hepatitis B is indicated.

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

18 (b) A worker or the survivor of a worker who has died as a result  
19 of one of the conditions or diseases listed in subsection (3) of this  
20 section, and whose claim was denied by order of the department, the  
21 board of industrial insurance appeals, or a court, can file a new  
22 claim for the same exposure and contended condition or disease.

23 (c) This section applies to decisions made after June 7, 2018,  
24 without regard to the date of last injurious exposure or claim  
25 filing.

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

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