
SENATE BILL 5940

State of Washington 65th Legislature 2017 1st Special Session

By Senator Keiser

Read first time 05/19/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to the presumption of occupational disease for
2 certain employees at the United States department of energy Hanford
3 site; and adding a new section to chapter 51.32 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.32
6 RCW to read 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 for
19 at least one eight-hour shift while covered under this title.

20 (2)(a) For United States department of energy Hanford site
21 workers, as defined in this section, who are covered under this

1 title, there exists a prima facie presumption that the diseases and
2 conditions listed in subsection (3) of this section are occupational
3 diseases under RCW 51.08.140.

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

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

10 (a) Respiratory disease;

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

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

14 (d) Acute and chronic beryllium disease; and

15 (e) Neurological disease.

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

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

23 (i) Leukemia;

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

28 (iii) Primary or secondary bone cancer, including the bone form
29 of solitary plasmacytoma, myelodysplastic syndrome, myelobibrosis
30 with myeloid metaplasia, essential thrombocytosis or essential
31 thrombocythemia, primary polycythemia vera (also called polycythemia
32 rubra vera, P. vera, primary polycythemia, proliferative
33 polycythemia, spent-phase polycythemia, or primary erythermia);

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

35 (v) Lymphomas, other than Hodgkin's disease;

36 (vi) Waldenstrom's macroglobulinemia and mycosis fungoides; and

37 (vii) Primary cancer of the: (A) Thyroid; (B) male or female
38 breast; (C) esophagus; (D) stomach; (E) pharynx, including all three
39 areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The
40 oropharynx includes base of tongue, soft palate and tonsils (the

1 hypopharynx includes the pyriform sinus); (F) small intestine; (G)
2 pancreas; (H) bile ducts, including ampulla of vater; (I) gall
3 bladder; (J) salivary gland; (K) urinary bladder; (L) brain
4 (malignancies only and not including intracranial endocrine glands
5 and other parts of the central nervous system or borderline
6 astrocytomas); (M) colon, including rectum and appendix; (N) ovary,
7 including fallopian tubes if both organs are involved; and (O) liver,
8 except if cirrhosis or hepatitis B is indicated.

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

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

17 (c) This section applies to decisions made after the effective
18 date of this section, without regard to the date of last injurious
19 exposure or claim filing.

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

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

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