

118TH CONGRESS
2D SESSION

S. 4403

To amend the Radiation Exposure Compensation Act to revise the definition of “affected area” and extend the period in which compensation may be provided, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2024

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Radiation Exposure Compensation Act to revise the definition of “affected area” and extend the period in which compensation may be provided, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Downwinders Act”.

1 **SEC. 2. AMENDMENTS TO THE RADIATION EXPOSURE COM-**
2 **PENSATION ACT.**

3 (a) **AFFECTED AREAS.**—Section 4 of the Radiation
4 Exposure Compensation Act (42 U.S.C. 2210 note; Public
5 Law 101–426) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A)—

9 (I) in clause (i)—

10 (aa) in subclause (II), by
11 striking “; or” and inserting a
12 semicolon;

13 (bb) by redesignating sub-
14 clause (III) as subclause (IV);
15 and

16 (cc) by inserting after sub-
17 clause (II) the following:

18 “(III) was physically present in
19 the affected area described in sub-
20 section (b)(1)(D) for the period begin-
21 ning on July 16, 1945, and ending on
22 August 16, 1945; or”; and

23 (II) in clause (ii)(I), by striking
24 “physical presence described in sub-
25 clause (I) or (II) of clause (i) or on-
26 site participation described in clause

1 (i)(III)” and inserting “physical pres-
2 ence described in subclause (I), (II),
3 or (III) of clause (i) or onsite partici-
4 pation described in clause (i)(IV)”;
5 and

6 (ii) in subparagraph (B)—

7 (I) in clause (i), by striking “sub-
8 clause (I) or (II) of subparagraph
9 (A)(i)” and inserting “subclause (I),
10 (II), or (III) of subparagraph (A)(i)”;
11 and

12 (II) in clause (ii), by striking
13 “subclause (III)” and inserting “sub-
14 clause (IV)”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (B), by striking “,
17 or” and inserting a comma;

18 (ii) by redesignating subparagraph
19 (C) as subparagraph (D);

20 (iii) by inserting after subparagraph
21 (B) the following:

22 “(C) was physically present in the affected
23 area described in subsection (b)(1)(D) for the
24 period beginning on July 16, 1945, and ending
25 on August 16, 1945, or”; and

1 (iv) in the matter following subpara-
 2 graph (D), as so redesignated, by striking
 3 “subparagraph (A) or (B)” and all that
 4 follows through “subparagraph (C)” and
 5 inserting “subparagraph (A), (B), or (C))
 6 or \$75,000 (in the case of an individual
 7 described in subparagraph (D));

8 (2) in subsection (b)(1)—

9 (A) in subparagraph (A), by striking “in
 10 the State” and all that follows through “Piute”
 11 and inserting “the State of Utah”;

12 (B) in subparagraph (B), by striking “;
 13 and” and inserting a semicolon; and

14 (C) by adding at the end the following:

15 “(D) with respect to a claim by an indi-
 16 vidual under subsection (a)(1)(A)(i)(III) or sub-
 17 section (a)(2)(C), only the counties of
 18 Bernalillo, Chaves, Guadalupe, Lincoln,
 19 Sandoval, San Miguel, Santa Fe, Socorro, Tor-
 20 rance, and Valencia in the State of New Mex-
 21 ico; and”.

22 (b) EXTENSION OF PERIOD OF COMPENSATION.—

23 (1) TERMINATION OF FUND.—Section 3(d) of
 24 the Radiation Exposure Compensation Act (42

1 U.S.C. 2210 note; Public Law 101–426) is amend-
2 ed—

3 (A) in the first sentence, by striking “2
4 years after the date of enactment of the RECA
5 Extension Act of 2022” and inserting “8 years
6 after the date of enactment of the Downwinders
7 Act”; and

8 (B) in the second sentence, by striking “2-
9 year period” and inserting “8-year period”.

10 (2) ELIGIBILITY.—Section 8(a) of the Radi-
11 ation Exposure Compensation Act (42 U.S.C. 2210
12 note; Public Law 101–426) is amended by striking
13 “2 years after the date of enactment of the RECA
14 Extension Act of 2022” and inserting “8 years after
15 the date of enactment of the Downwinders Act”.

16 (c) CLAIMS RELATING TO MANHATTAN PROJECT
17 WASTE.—The Radiation Exposure Compensation Act (42
18 U.S.C. 2210 note; Public Law 101–426) is amended by
19 inserting after section 5 the following:

20 **“SEC. 5A. CLAIMS RELATING TO MANHATTAN PROJECT**
21 **WASTE.**

22 “(a) IN GENERAL.—A claimant shall receive com-
23 pensation for a claim made under this Act, as described
24 in subsection (b) or (c), if—

1 “(1) a claim for compensation is filed with the
2 Attorney General—

3 “(A) by an individual described in para-
4 graph (2); or

5 “(B) on behalf of that individual by an au-
6 thorized agent of that individual, if the indi-
7 vidual is deceased or incapacitated, such as—

8 “(i) an executor of estate of that indi-
9 vidual; or

10 “(ii) a legal guardian or conservator
11 of that individual;

12 “(2) that individual, or if applicable, an author-
13 ized agent of that individual, demonstrates that the
14 individual—

15 “(A) was physically present in an affected
16 area for a period of at least 2 years after Janu-
17 ary 1, 1949; and

18 “(B) contracted a specified disease after
19 such period of physical presence;

20 “(3) the Attorney General certifies that the
21 identity of that individual, and if applicable, the au-
22 thorized agent of that individual, is not fraudulent
23 or otherwise misrepresented; and

1 “(4) the Attorney General determines that the
2 claimant has satisfied the applicable requirements of
3 this Act.

4 “(b) LOSSES AVAILABLE TO LIVING AFFECTED INDI-
5 VIDUALS.—

6 “(1) IN GENERAL.—In the event of a claim
7 qualifying for compensation under subsection (a)
8 that is submitted to the Attorney General to be eligi-
9 ble for compensation under this section at a time
10 when the individual described in subsection (a)(2) is
11 living, the amount of compensation under this sec-
12 tion shall be in an amount that is the greater of
13 \$50,000 or the total amount of compensation for
14 which the individual is eligible under paragraph (2).

15 “(2) LOSSES DUE TO MEDICAL EXPENSES.—A
16 claimant described in paragraph (1) shall be eligible
17 to receive, upon submission of contemporaneous
18 written medical records, reports, or billing state-
19 ments created by or at the direction of a licensed
20 medical professional who provided contemporaneous
21 medical care to the claimant, additional compensa-
22 tion in the amount of all documented out-of-pocket
23 medical expenses incurred as a result of the specified
24 disease suffered by that claimant, such as any med-

1 ical expenses not covered, paid for, or reimbursed
2 through—

3 “(A) any public or private health insur-
4 ance;

5 “(B) any employee health insurance;

6 “(C) any workers’ compensation program;

7 or

8 “(D) any other public, private, or employee
9 health program or benefit.

10 “(c) PAYMENTS TO BENEFICIARIES OF DECEASED
11 INDIVIDUALS.—In the event that an individual described
12 in subsection (a)(2) who qualifies for compensation under
13 subsection (a) is deceased at the time of submission of
14 the claim—

15 “(1) a surviving spouse may, upon submission
16 of a claim and records sufficient to satisfy the re-
17 quirements of subsection (a) with respect to the de-
18 ceased individual, receive compensation in the
19 amount of \$25,000; or

20 “(2) in the event that there is no surviving
21 spouse, the surviving children, minor or otherwise, of
22 the deceased individual may, upon submission of a
23 claim and records sufficient to satisfy the require-
24 ments of subsection (a) with respect to the deceased
25 individual, receive compensation in the total amount

1 of \$25,000, paid in equal shares to each surviving
2 child.

3 “(d) AFFECTED AREA.—For purposes of this section,
4 the term ‘affected area’ means the ZIP Codes in the State
5 of Missouri of 63031, 63033, 63034, 63042, 63045,
6 63074, 63114, 63135, 63138, 63044, 63121, 63140,
7 63145, 63147, 63102, 63304, 63134, 63043, 63341,
8 63368, and 63367.

9 “(e) SPECIFIED DISEASE.—For purposes of this sec-
10 tion, the term ‘specified disease’ means any of the fol-
11 lowing:

12 “(1) Any leukemia, other than chronic
13 lymphocytic leukemia, provided that the initial expo-
14 sure occurred after the age of 20 and the onset of
15 the disease was at least 2 years after first exposure.

16 “(2) Any of the following diseases, provided
17 that the onset was at least 2 years after the initial
18 exposure:

19 “(A) Multiple myeloma.

20 “(B) Lymphoma, other than Hodgkin’s
21 disease.

22 “(C) Primary cancer of the—

23 “(i) thyroid;

24 “(ii) male or female breast;

25 “(iii) esophagus;

- 1 “(iv) stomach;
2 “(v) pharynx;
3 “(vi) small intestine;
4 “(vii) pancreas;
5 “(viii) bile ducts;
6 “(ix) gall bladder;
7 “(x) salivary gland;
8 “(xi) urinary bladder;
9 “(xii) brain;
10 “(xiii) colon;
11 “(xiv) ovary;
12 “(xv) bone;
13 “(xvi) renal;
14 “(xvii) liver, except if cirrhosis or hep-
15 atitis B is indicated; or
16 “(xviii) lung.

17 “(f) PHYSICAL PRESENCE.—

18 “(1) IN GENERAL.—For purposes of this sec-
19 tion, the Attorney General shall not determine that
20 a claimant has satisfied the requirements of sub-
21 section (a) unless demonstrated by submission of—

22 “(A) contemporaneous written residential
23 documentation and at least 1 additional em-
24 ployer-issued or government-issued document or
25 record that the claimant, for at least 2 years

1 after January 1, 1949, was physically present
2 in an affected area; or

3 “(B) other documentation determined by
4 the Attorney General to demonstrate that the
5 claimant, for at least 2 years after January 1,
6 1949, was physically present in an affected
7 area.

8 “(2) TYPES OF PHYSICAL PRESENCE.—For
9 purposes of determining physical presence under this
10 section, a claimant shall be considered to have been
11 physically present in an affected area if—

12 “(A) the claimant’s primary residence was
13 in the affected area;

14 “(B) the claimant’s place of employment
15 was in the affected area; or

16 “(C) the claimant attended school in the
17 affected area.

18 “(g) DISEASE CONTRACTION IN AFFECTED
19 AREAS.—For purposes of this section, the Attorney Gen-
20 eral shall not determine that a claimant has satisfied the
21 requirements of subsection (a) unless the claimant sub-
22 mits—

23 “(1) written medical records or reports created
24 by or at the direction of a licensed medical profes-
25 sional, created contemporaneously with the provision

1 of medical care to the claimant, that the claimant,
2 after a period of physical presence in an affected
3 area, contracted a specified disease; or

4 “(2) other documentation determined by the At-
5 torney General to demonstrate that the claimant
6 contracted a specified disease after a period of phys-
7 ical presence in an affected area.”.

8 (d) CONFORMING AMENDMENTS.—Section 6 of the
9 Radiation Exposure Compensation Act (42 U.S.C. 2210
10 note; Public Law 101–426) is amended—

11 (1) in subsection (b)(2)(C), by striking “section
12 4(a)(2)(C)” and inserting “section 4(a)(2)(D)”;

13 (2) in subsection (c)(2)—

14 (A) in subparagraph (A)—

15 (i) in the matter preceding clause (i),
16 by striking “subsection (a)(1), (a)(2)(A),
17 or (a)(2)(B) of section 4” and inserting
18 “subsection (a)(1), (a)(2)(A), (a)(2)(B), or
19 (a)(2)(C) of section 4”; and

20 (ii) in clause (i), by striking “sub-
21 section (a)(1), (a)(2)(A), or (a)(2)(B) of
22 section 4” and inserting “subsection
23 (a)(1), (a)(2)(A), (a)(2)(B), or (a)(2)(C) of
24 section 4”; and

1 (B) in subparagraph (B), by striking “sec-
2 tion 4(a)(2)(C)” and inserting “section
3 4(a)(2)(D)”;

4 (3) in subsection (e), by striking “subsection
5 (a)(1), (a)(2)(A), or (a)(2)(B) of section 4” and in-
6 serting “subsection (a)(1), (a)(2)(A), (a)(2)(B), or
7 (a)(2)(C) of section 4”.

8 **SEC. 3. STUDY ON COUNTIES AFFECTED BY RADIATION**
9 **FALL-OUT DUE TO OPEN AIR NUCLEAR TEST-**
10 **ING CONDUCTED IN NEVADA AND NEW MEX-**
11 **ICO.**

12 Not later than 1 year after the date of enactment
13 of this Act, the Secretary of Health and Human Services,
14 in consultation with the Secretary of Energy, shall conduct
15 a research study and report to Congress on which counties
16 were affected by radiation fall-out due to open air nuclear
17 testing conducted in Nevada and New Mexico, as identi-
18 fied using evidence-based analysis.

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