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SENATE BILL 5890

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State of Washington

67th Legislature

2022 Regular Session

By Senator Keiser

1 AN ACT Relating to clarifying eligibility for the presumption for  
2 workers' compensation for all personnel working at a radiological  
3 hazardous waste facility; amending RCW 51.32.187; and declaring an  
4 emergency.

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

6 **Sec. 1.** RCW 51.32.187 and 2019 c 108 s 1 are each amended to  
7 read as follows:

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

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

15 (b) ~~"United States department of energy Hanford site workers" and~~  
16 ~~"Hanford site worker" means any person, including a contractor or~~  
17 ~~subcontractor, who was engaged in the performance of work, either~~  
18 ~~directly or indirectly, for the United States, regarding projects and~~  
19 ~~contracts at the Hanford nuclear site and who worked on the site at~~  
20 ~~the two hundred east, two hundred west, three hundred area,~~  
21 ~~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)) "Exposed worker(s)" means a worker~~  
8 ~~working at a radiological hazardous waste facility for at least an~~  
9 ~~eight hour shift covered under this title, including conducting an~~  
10 ~~inspection of the facility.~~

11 ~~(b) "Radiological hazardous waste facility" means any structure~~  
12 ~~and its lands where high-level radioactive waste as defined by 33~~  
13 ~~U.S.C. Sec. 1402 or mixed waste as defined by WAC 173-303-040 is~~  
14 ~~stored or disposed of.~~

15 ~~(2) (a) For exposed workers who are covered under this title,~~  
16 ~~there exists a prima facie presumption that the diseases and~~  
17 ~~conditions listed in subsection (3) of this section are occupational~~  
18 ~~diseases under RCW 51.08.140.~~

19 ~~(b) This presumption of occupational disease may be rebutted by~~  
20 ~~clear and convincing evidence. Such evidence may include, but is not~~  
21 ~~limited to, use of tobacco products, physical fitness and weight,~~  
22 ~~lifestyle, hereditary factors, and exposure from other employment or~~  
23 ~~nonemployment activities.~~

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

25 ~~(a) Respiratory disease, except communicable diseases;~~

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

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

29 ~~(d) Beryllium sensitization, and acute and chronic beryllium~~  
30 ~~disease; ((and))~~

31 ~~(e) Neurological disease, except communicable diseases;~~

32 ~~(f) Liver function problems;~~

33 ~~(g) Kidney function problems; and~~

34 ~~(h) Reproductive system function problems.~~

35 ~~(4) (a) The presumption established for cancer only applies to any~~  
36 ~~active or former ((United States department of energy Hanford site))~~  
37 ~~exposed worker who has cancer that develops or manifests itself and~~  
38 ~~who either was given a qualifying medical examination upon becoming~~  
39 ~~((a United States department of energy Hanford site)) such a worker~~  
40 ~~that showed no evidence of cancer or was not given a qualifying~~

1 medical examination because a qualifying medical examination was not  
2 required.

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

4 (i) Leukemia;

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

9 (iii) Primary or secondary bone cancer, including the bone form  
10 of solitary plasmacytoma, myelodysplastic syndrome, myelofibrosis  
11 with myeloid metaplasia, essential thrombocytosis or essential  
12 thrombocythemia, primary polycythemia vera (also called polycythemia  
13 rubra vera, P. vera, primary polycythemia, proliferative  
14 polycythemia, spent-phase polycythemia, or primary erythremia);

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

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

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

18 (vii) Primary cancer of the: (A) Thyroid; (B) male or female  
19 breast; (C) esophagus; (D) stomach; (E) pharynx, including all three  
20 areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The  
21 oropharynx includes base of tongue, soft palate and tonsils (the  
22 hypopharynx includes the pyriform sinus); (F) small intestine; (G)  
23 pancreas; (H) bile ducts, including ampulla of vater; (I) gall  
24 bladder; (J) salivary gland; (K) urinary bladder; (L) brain  
25 (malignancies only and not including intracranial endocrine glands  
26 and other parts of the central nervous system or borderline  
27 astrocytomas); (M) colon, including rectum and appendix; (N) ovary,  
28 including fallopian tubes if both organs are involved; and (O) liver,  
29 except if cirrhosis or hepatitis B is indicated.

30 (5) (a) The presumption established in this section extends to an  
31 (~~applicable United States department of energy Hanford site~~)  
32 exposed worker following termination of service for the lifetime of  
33 that individual.

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

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

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

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

15 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of  
17 the state government and its existing public institutions, and takes  
18 effect immediately.

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