

111TH CONGRESS
1ST SESSION

H. R. 2573

To amend title 38, United States Code, to revise the eligibility criteria for presumption of service-connection of certain diseases and disabilities for veterans exposed to ionizing radiation during military service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. ABERCROMBIE introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to revise the eligibility criteria for presumption of service-connection of certain diseases and disabilities for veterans exposed to ionizing radiation during military service, 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 “Atomic Veterans Relief
5 Act”.

1 **SEC. 2. ELIGIBILITY CRITERIA FOR PRESUMPTION OF**
2 **SERVICE-CONNECTION RESULTING FROM EX-**
3 **POSURE TO IONIZING RADIATION DUE TO**
4 **OPEN-AIR NUCLEAR TESTING.**

5 Section 1112(c)(3)(B) of title 38, United States
6 Code, is amended by inserting before the period at the
7 end of clause (i) the following: “or exposure occurring at
8 any time to ionizing radiation from undetonated weapons
9 or residual contamination resulting from such a detona-
10 tion”.

11 **SEC. 3. MINIMUM REQUIREMENTS FOR THE PERFORMANCE**
12 **OF DOSE RECONSTRUCTIONS.**

13 Section 1154 of title 38, United States Code, is
14 amended by adding at the end the following new sub-
15 section:

16 “(c)(1) The Secretary shall include in the regulations
17 pertaining to service-connection of disabilities referred to
18 in subsection (a) additional provisions to ensure, in the
19 case of a claim by a radiation-exposed veteran for service-
20 connection of a nonpresumptive disability, that the proce-
21 dures for establishment of whether the disability is service-
22 connected that require the mathematical calculation of the
23 level of exposure of the veteran to ionizing radiation re-
24 quire the Secretary to carry out each of the following:

25 “(A) To determine the specific facts and cir-
26 cumstances of the claimed exposure based on the

1 evidence in the record while presuming the veteran’s
2 recitation of the event is correct except where clear
3 and convincing evidence establishes otherwise.

4 “(B) To obtain a reconstructed dose based on
5 the specific facts and circumstances established by
6 the evidence ensuring that no assumptions, bases, or
7 other processes conflict with the evidence provided
8 by the Secretary.

9 “(C) To require that each dose reconstruction
10 required under subparagraph (B) include—

11 “(i) the calculated dose for each relevant
12 radiation and organ;

13 “(ii) a description of the dose reconstruc-
14 tion process in sufficient detail to allow a rea-
15 sonable person with appropriate experience and
16 training to assess the methodology used to
17 produce the reported doses;

18 “(iii) a listing of each assumption used in
19 the dose reconstruction and the basis or bases
20 for each such assumption;

21 “(iv) a listing of each deviation from the
22 factual scenario established by the evidence, the
23 reason for the deviation, and an explanation of
24 the impact on the reconstructed dose, including

1 whether the deviation increased or decreased
2 the final calculated dose; and

3 “(v) any other information that would fur-
4 ther clarify the bases of the reconstructed dose
5 or aid the determination of its probative value.

6 “(2)(A) The Secretary shall provide to a radiation-
7 exposed veteran the veteran’s dose that is reconstructed
8 by the Secretary under paragraph (1), and the informa-
9 tion required under subparagraph (C) of that paragraph
10 to be included with the dose reconstruction.

11 “(B) Failure to provide the information required by
12 subparagraph (A) shall be considered a prejudicial error
13 requiring the Secretary to readjudicate the prejudiced
14 claim based on a dose reconstruction compliant with this
15 section.

16 “(3) For purposes of this subsection:

17 “(A) The term ‘radiation-exposed veteran’ has
18 the meaning given that term in section
19 1112(e)(3)(A) of this title.

20 “(B) The term ‘nonpresumptive disability’
21 means a disability not specified in section 1112(e)(2)
22 of this title.”.

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