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Text of H.R. 2573: Atomic Veterans Relief Act

May 21, 2009 - Introduced in House. This is the original text of the bill as it was written by its sponsor and submitted to the House for consideration. This is the latest version of the bill currently available on GovTrack.

HR 2573 IH

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Atomic Veterans Relief Act'.

SEC. 2. ELIGIBILITY CRITERIA FOR PRESUMPTION OF SERVICE-CONNECTION RESULTING FROM EXPOSURE TO

**IONIZING RADIATION DUE TO OPEN-AIR
NUCLEAR TESTING.**

Section 1112(c)(3)(B) of title 38, United States Code, is amended by inserting before the period at the end of clause (i) the following: 'or exposure occurring at any time to ionizing radiation from undetonated weapons or residual contamination resulting from such a detonation'.

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

Section 1154 of title 38, United States Code, is amended by adding at the end the following new subsection:

'(c)(1) The Secretary shall include in the regulations pertaining to service-connection of disabilities referred to in subsection (a) additional provisions to ensure, in the case of a claim by a radiation-exposed veteran for service-connection of a nonpresumptive disability, that the procedures for establishment of whether the disability is service-connected that require the mathematical calculation of the level of exposure of the veteran to ionizing radiation require the Secretary to carry out each of the following:

'(A) To determine the specific facts and circumstances of the claimed exposure based on the evidence in the record while presuming the veteran's recitation of the event is correct except where clear and convincing evidence establishes otherwise.

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

'(C) To require that each dose reconstruction required under subparagraph (B) include--

'(i) the calculated dose for each relevant radiation and organ;

'(ii) a description of the dose reconstruction process in sufficient detail to allow a reasonable person with appropriate experience and training to assess the

methodology used to produce the reported doses;

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

'(iv) a listing of each deviation from the factual scenario established by the evidence, the reason for the deviation, and an explanation of the impact on the reconstructed dose, including whether the deviation increased or decreased the final calculated dose; and

'(v) any other information that would further clarify the bases of the reconstructed dose or aid the determination of its probative value.

'(2)(A) The Secretary shall provide to a radiation-exposed veteran the veteran's dose that is reconstructed by the Secretary under paragraph (1), and the information required under subparagraph (C) of that paragraph to be included with the dose reconstruction.

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

'(3) For purposes of this subsection:

'(A) The term 'radiation-exposed veteran' has the meaning given that term in section 1112(c)(3)(A) of this title.

'(B) The term 'nonpresumptive disability' means a disability not specified in section 1112(c)(2) of this title.'