

111TH CONGRESS
1ST SESSION

S. 642

To require the Secretary of Defense to establish registries of members and former members of the Armed Forces exposed in the line of duty to occupational and environmental health chemical hazards, to amend title 38, United States Code, to provide health care to veterans exposed to such hazards, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 2009

Mr. BAYH (for himself, Mr. MERKLEY, Mr. BYRD, Mr. DORGAN, Mr. WYDEN, and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To require the Secretary of Defense to establish registries of members and former members of the Armed Forces exposed in the line of duty to occupational and environmental health chemical hazards, to amend title 38, United States Code, to provide health care to veterans exposed to such hazards, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health Care for Mem-
3 bers of the Armed Forces Exposed to Chemical Hazards
4 Act of 2009”.

5 **SEC. 2. ESTABLISHMENT OF REGISTRIES OF MEMBERS AND**
6 **FORMER MEMBERS OF THE ARMED FORCES**
7 **EXPOSED IN LINE OF DUTY TO OCCUPA-**
8 **TIONAL AND ENVIRONMENTAL HEALTH**
9 **CHEMICAL HAZARDS.**

10 (a) ESTABLISHMENT.—For each occupational and
11 environmental health chemical hazard of particular con-
12 cern, the Secretary of Defense shall establish and admin-
13 ister a registry of members and former members of the
14 Armed Forces who were exposed in the line of duty to
15 such hazard on or after September 11, 2001.

16 (b) REGISTRATION.—For every member and former
17 member of the Armed Forces who was exposed in the line
18 of duty to a hazard described in subsection (a), the Sec-
19 retary shall—

20 (1) register such member or former member in
21 such registry; and

22 (2) collect such information about such member
23 or former member as the Secretary considers appro-
24 priate for purposes of establishing and administering
25 such registry.

1 (c) NOTIFICATION.—In the case that the Secretary
2 learns that a member or former member of the Armed
3 Forces may have been exposed in the line of duty to a
4 hazard described in subsection (a), the Secretary shall—

5 (1) notify of such exposure—

6 (A) such member or former member;

7 (B) the commanding officer of the unit to
8 which such member or former member belonged
9 at the time of such exposure; and

10 (C) in the case of a member of the Na-
11 tional Guard, the Adjutant General of the State
12 concerned; and

13 (2) inform such member or former member that
14 such member or former member may be included in
15 the registry required by subsection (a) for such haz-
16 ard.

17 (d) EXAMINATION.—Not later than 30 days after the
18 date on which the Secretary becomes aware of an exposure
19 of a member or former member of the Armed Forces to
20 a hazard described in subsection (a) and annually there-
21 after, the Secretary shall provide such member or former
22 member—

23 (1) a complete physical and medical examina-
24 tion;

1 (2) consultation and counseling with respect to
2 the results of such physical and examination; and

3 (3) a copy of the documentation of such expo-
4 sure in the member's or former member's medical
5 record maintained by the Department of Defense.

6 (e) OCCUPATIONAL AND ENVIRONMENTAL HEALTH
7 CHEMICAL HAZARD OF PARTICULAR CONCERN DE-
8 FINED.—In this section, the term “occupational and envi-
9 ronmental health chemical hazard of particular concern”
10 means an occupational and environmental health chemical
11 hazard that the Secretary of Defense determines is of par-
12 ticular concern after considering appropriate guidelines
13 and standards for exposure, including the following:

14 (1) The military exposure guidelines specified in
15 the January 2002 Chemical Exposure Guidelines for
16 Deployed Military Personnel, United States Army
17 Center for Health Promotion and Preventive Medi-
18 cine Technical Guide 230 (or any successor technical
19 guide that establishes military exposure guidelines
20 for the assessment of the significance of field expo-
21 sures to occupational and environmental health
22 chemical hazards during deployments).

23 (2) Occupational and environmental health
24 chemical exposure standards promulgated by the Oc-
25 cupational Safety and Health Administration.

1 **SEC. 3. SCIENTIFIC REVIEW OF ASSOCIATION OF INCI-**
2 **DENTS OF EXPOSURE TO OCCUPATIONAL**
3 **AND ENVIRONMENTAL HEALTH CHEMICAL**
4 **HAZARDS WITH HEALTH CONSEQUENCES.**

5 (a) AGREEMENT.—

6 (1) IN GENERAL.—The Secretary of Defense
7 shall seek to enter into an agreement with the Insti-
8 tute of Medicine of the National Academies for the
9 Institute of Medicine to perform the services covered
10 by this section.

11 (2) TIMING.—The Secretary shall seek to enter
12 into the agreement described in paragraph (1) not
13 later than two months after the date of the enact-
14 ment of this Act.

15 (b) REVIEW OF SCIENTIFIC EVIDENCE.—Under an
16 agreement between the Secretary of Defense and the Insti-
17 tute of Medicine under this section, the Institute of Medi-
18 cine shall, for each incident of exposure involving one or
19 more members of the Armed Forces reported in a registry
20 established under section 2(a) to an occupational and envi-
21 ronmental health chemical hazard of particular concern,
22 review and summarize the scientific evidence, and assess
23 the strength thereof, concerning the association between
24 the exposure to such hazard and acute and long-term
25 health consequences of such exposure.

1 (c) SCIENTIFIC DETERMINATIONS CONCERNING
2 HEALTH CONSEQUENCES.—

3 (1) IN GENERAL.—For each incident of expo-
4 sure reviewed under subsection (b), the Institute of
5 Medicine shall determine (to the extent that avail-
6 able scientific data permit meaningful determina-
7 tions)—

8 (A) whether a statistical association with
9 the acute and long-term health consequences
10 exists, taking into account the strength of the
11 scientific evidence and the appropriateness of
12 the statistical and epidemiological methods used
13 to detect the association; and

14 (B) whether there exists a plausible bio-
15 logical mechanism or other evidence of a causal
16 relationship between the occupational and envi-
17 ronmental health chemical hazard and the
18 health consequences.

19 (2) DISCUSSION AND REASONING.—The Insti-
20 tute of Medicine shall include in its reports under
21 subsection (f) a full discussion of the scientific evi-
22 dence and reasoning that led to its conclusions
23 under this subsection.

24 (d) RECOMMENDATIONS FOR ADDITIONAL SCI-
25 ENTIFIC STUDIES.—

1 (1) IN GENERAL.—The Institute of Medicine
2 shall make any recommendations it has for addi-
3 tional scientific studies to resolve areas of continuing
4 scientific uncertainty relating to exposure to occupa-
5 tional and environmental health chemical hazards of
6 particular concern.

7 (2) CONSIDERATIONS.—In making rec-
8 ommendations for further study, the Institute of
9 Medicine shall consider the following:

10 (A) The scientific information that is cur-
11 rently available.

12 (B) The value and relevance of the infor-
13 mation that could result from additional stud-
14 ies.

15 (e) SUBSEQUENT REVIEWS.—The agreement under
16 subsection (a) shall require the Institute of Medicine—

17 (1) to conduct periodically as comprehensive a
18 review as is practicable of the evidence referred to
19 in subsection (b) that has become available since the
20 last review of such evidence under this section; and

21 (2) to make its determinations and estimates on
22 the basis of the results of such review and all other
23 reviews conducted for the purposes of this section.

24 (f) REPORTS.—

25 (1) REPORTS TO CONGRESS.—

1 (A) IN GENERAL.—The agreement under
2 subsection (a) shall require the Institute of
3 Medicine to submit, not later than the end of
4 the 18-month period beginning on the date of
5 the enactment of this Act and not less fre-
6 quently than once every two years thereafter, to
7 the appropriate committees of Congress a re-
8 port on the activities of the Institute of Medi-
9 cine under the agreement.

10 (B) CONTENTS.—The report described in
11 subparagraph (A) shall include the following:

12 (i) The determinations and discussion
13 referred to in subsection (c).

14 (ii) Any recommendations of the Insti-
15 tute of Medicine under subsection (d).

16 (2) REPORTS TO SECRETARY OF DEFENSE.—
17 The agreement under subsection (a) shall require
18 the Institute of Medicine, in the case that the Insti-
19 tute of Medicine makes any conclusive determination
20 under subsection (c)(1) with respect to any incident
21 of exposure studied under subsection (b), to submit,
22 not later than 30 days after the date of such deter-
23 mination, to the Secretary of Defense a report de-
24 scribing such determination.

1 (g) NOTICE TO MEMBERS AND FORMER MEMBERS
2 OF THE ARMED FORCES.—The Secretary of Defense shall
3 notify members and former members of the Armed Forces
4 listed in a registry established under section 2(a) for expo-
5 sure to an occupational and environmental health chemical
6 hazard of particular concern of—

7 (1) any conclusive determinations made with re-
8 spect to such exposure under subsection (c)(1); and

9 (2) any other significant developments in re-
10 search on the health consequences of exposure to
11 such hazard.

12 (h) LIMITATION ON AUTHORITY.—The agreement
13 under this section shall be effective for a fiscal year to
14 the extent that appropriations are available to carry out
15 the agreement.

16 (i) SUNSET.—This section shall cease to be effective
17 10 years after the last day of the fiscal year in which the
18 Institute of Medicine submits to the Secretary of Defense
19 the first report under subsection (f).

20 (j) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZA-
21 TION.—

22 (1) IN GENERAL.—If the Secretary of Defense
23 is unable within the time period prescribed in sub-
24 section (a)(2) to enter into an agreement described
25 in subsection (a)(1) with the Institute of Medicine

1 on terms acceptable to the Secretary, the Secretary
 2 shall seek to enter into such an agreement with an-
 3 other appropriate scientific organization that—

4 (A) is not part of the Government;

5 (B) operates as a not-for-profit entity; and

6 (C) has expertise and objectivity com-
 7 parable to that of the Institute of Medicine.

8 (2) TREATMENT.—If the Secretary enters into
 9 an agreement with another organization as described
 10 in paragraph (1), any reference in this section to the
 11 Institute of Medicine shall be treated as a reference
 12 to the other organization.

13 (k) DEFINITIONS.—In this section:

14 (1) APPROPRIATE COMMITTEES OF CON-
 15 GRESS.—The term “appropriate committees of Con-
 16 gress” means—

17 (A) the Committee on Armed Services, the
 18 Committee on Veterans’ Affairs, and the Com-
 19 mittee on Appropriations of the Senate; and

20 (B) the Committee on Armed Services, the
 21 Committee on Veterans’ Affairs, and the Com-
 22 mittee on Appropriations of the House of Rep-
 23 resentatives.

24 (2) OCCUPATIONAL AND ENVIRONMENTAL
 25 HEALTH CHEMICAL HAZARD OF PARTICULAR CON-

1 CERN.—The term “occupational and environmental
2 health chemical hazard of particular concern” means
3 an occupational and environmental health chemical
4 hazard that the Secretary of Defense determines is
5 of particular concern after considering appropriate
6 guidelines and standards for exposure, including the
7 following:

8 (A) The military exposure guidelines speci-
9 fied in the January 2002 Chemical Exposure
10 Guidelines for Deployed Military Personnel,
11 United States Army Center for Health Pro-
12 motion and Preventive Medicine Technical
13 Guide 230 (or any successor technical guide
14 that establishes military exposure guidelines for
15 the assessment of the significance of field expo-
16 sures to occupational and environmental health
17 chemical hazards during deployments).

18 (B) Occupational and environmental health
19 chemical exposure standards promulgated by
20 the Occupational Safety and Health Adminis-
21 tration.

1 **SEC. 4. REVISION IN AUTHORITIES FOR PROVISION OF**
2 **HEALTH CARE FOR CERTAIN VETERANS EX-**
3 **POSED TO OCCUPATIONAL AND ENVIRON-**
4 **MENTAL HEALTH CHEMICAL HAZARDS.**

5 (a) AUTHORIZED INPATIENT CARE.—Section
6 1710(e) of title 38, United States Code, is amended—

7 (1) in paragraph (1), by adding at the end the
8 following:

9 “(F) A veteran who was exposed in the line of duty
10 to an occupational and environmental health chemical haz-
11 ard of particular concern is eligible (subject to paragraph
12 (2)) for hospital care, medical services, and nursing home
13 care under subsection (a)(2)(F) for any disability, not-
14 withstanding that there is insufficient medical evidence to
15 conclude that such disability may be associated with such
16 exposure.”;

17 (2) in paragraph (2), by adding at the end the
18 following:

19 “(C) In the case of a veteran described in paragraph
20 (1)(F), hospital care, medical services, and nursing home
21 care may not be provided under subsection (a)(2)(F) with
22 respect to—

23 “(i) a disability that is found, in accordance
24 with guidelines issued by the Under Secretary for
25 Health, to have resulted from a cause other than an
26 exposure described in paragraph (1)(F); or

1 “(ii) a health effect for which the National
2 Academy of Sciences, in a report issued in accord-
3 ance with section 3 of the Health Care for Members
4 of the Armed Forces Exposed to Chemical Hazards
5 Act of 2009, has determined that there is limited or
6 suggestive evidence of the lack of a positive associa-
7 tion between occurrence of the health consequences
8 in humans and exposure to an occupational and en-
9 vironmental health chemical hazard of particular
10 concern.”; and

11 (3) in paragraph (4), by adding at the end the
12 following:

13 “(C) The term ‘occupational and environmental
14 health chemical hazard of particular concern’ means
15 an occupational and environmental health chemical
16 hazard that the Secretary of Defense determines is
17 of particular concern after considering appropriate
18 guidelines and standards for exposure, including the
19 following:

20 “(i) The military exposure guidelines speci-
21 fied in the January 2002 Chemical Exposure
22 Guidelines for Deployed Military Personnel,
23 United States Army Center for Health Pro-
24 motion and Preventive Medicine Technical
25 Guide 230 (or any successor technical guide

1 that establishes military exposure guidelines for
2 the assessment of the significance of field expo-
3 sures to occupational and environmental health
4 chemical hazards during deployments).

5 “(ii) Occupational and environmental
6 health chemical exposure standards promul-
7 gated by the Occupational Safety and Health
8 Administration.”.

9 (b) TECHNICAL AMENDMENT.—Section 1710(e)(4)
10 of such title is amended in the matter before subparagraph
11 (A) by striking “For purposes of this subsection—” and
12 inserting “In this subsection:”.

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