

116TH CONGRESS
1ST SESSION

S. 191

To direct the Secretary of Defense to include in periodic health assessments, separation history and physical examinations, and other assessments an evaluation of whether a member of the Armed Forces has been exposed to open burn pits or toxic airborne chemicals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2019

Ms. KLOBUCHAR (for herself, Mr. SULLIVAN, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOZMAN, Mr. BROWN, Mr. CASEY, Mr. COTTON, Mr. CRUZ, Ms. DUCKWORTH, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HASSAN, Mr. KAINE, Mr. KING, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mr. MORAN, Mr. PETERS, Ms. ROSEN, Mr. SANDERS, Mrs. SHAHEEN, Ms. SMITH, Ms. STABENOW, Ms. WARREN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To direct the Secretary of Defense to include in periodic health assessments, separation history and physical examinations, and other assessments an evaluation of whether a member of the Armed Forces has been exposed to open burn pits or toxic airborne chemicals, 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 “Burn Pits Account-
3 ability Act”.

4 **SEC. 2. EXPOSURE TO OPEN BURN PITS AND TOXIC AIR-
5 BORNE CHEMICALS AS PART OF PERIODIC
6 HEALTH ASSESSMENTS AND OTHER PHYS-
7 ICAL EXAMINATIONS.**

8 (a) PERIODIC HEALTH ASSESSMENT.—The Sec-
9 retary of Defense shall ensure that any periodic health as-
10 sessment provided to members of the Armed Forces in-
11 cludes an evaluation of whether the member has been—

12 (1) based or stationed at a location where an
13 open burn pit was used; or

14 (2) exposed to toxic airborne chemicals, includ-
15 ing any information recorded as part of the Airborne
16 Hazards and Open Burn Pit Registry.

17 (b) SEPARATION HISTORY AND PHYSICAL EXAMINA-
18 TIONS.—Section 1145(a)(5) of title 10, United States
19 Code, is amended by adding at the end the following new
20 subparagraph:

21 “(C) The Secretary concerned shall ensure that each
22 physical examination of a member under subparagraph
23 (A) includes an assessment of whether the member was—

24 “(i) based or stationed at a location where an
25 open burn pit, as defined in subsection (c) of section
26 201 of the Dignified Burial and Other Veterans’

1 Benefits Improvement Act of 2012 (Public Law
2 112–260; 38 U.S.C. 527 note), was used; or

3 “(ii) exposed to toxic airborne chemicals, in-
4 cluding any information recorded as part of the reg-
5 istry established by the Secretary of Veterans Af-
6 fairs under such section 201.”.

7 (c) DEPLOYMENT ASSESSMENTS.—Section
8 1074f(b)(2) of title 10, United States Code, is amended
9 by adding at the end the following new subparagraph:

10 “(D) An assessment of whether the member
11 was—

12 “(i) based or stationed at a location where
13 an open burn pit, as defined in subsection (c)
14 of section 201 of the Dignified Burial and
15 Other Veterans’ Benefits Improvement Act of
16 2012 (Public Law 112–260; 38 U.S.C. 527
17 note), was used; or

18 “(ii) exposed to toxic airborne chemicals,
19 including any information recorded as part of
20 the registry established by the Secretary of Vet-
21 erans Affairs under such section 201.”.

22 (d) SHARING OF INFORMATION.—

23 (1) DOD–VA.—The Secretary of Defense and
24 the Secretary of Veterans Affairs shall jointly enter
25 into a memorandum of understanding providing for

1 the sharing by the Department of Defense with the
2 Department of Veterans Affairs of the results of
3 covered evaluations regarding the exposure by a
4 member of the Armed Forces to toxic airborne
5 chemicals.

6 (2) REGISTRY.—If a covered evaluation of a
7 member of the Armed Forces establishes that the
8 member was based or stationed at a location where
9 an open burn pit was used, or the member was ex-
10 posed to toxic airborne chemicals, the member shall
11 be enrolled in the Airborne Hazards and Open Burn
12 Pit Registry, unless the member elects to not so en-
13 roll.

14 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion may be construed to preclude eligibility for benefits
16 under the laws administered by the Secretary of Veterans
17 Affairs by reason of the open burn pit exposure history
18 of a veteran not being recorded in a covered evaluation.

19 (f) DEFINITIONS.—In this section:

20 (1) The term “Airborne Hazards and Open
21 Burn Pit Registry” means the registry established
22 by the Secretary of Veterans Affairs under section
23 201 of the Dignified Burial and Other Veterans’
24 Benefits Improvement Act of 2012 (Public Law
25 112–260; 38 U.S.C. 527 note).

1 (2) The term “covered evaluation” means—

2 (A) a periodic health assessment conducted
3 in accordance with subsection (a);

4 (B) a separation history and physical ex-
5 amination conducted under section 1145(a)(5)
6 of title 10, United States Code, as amended by
7 this section; and

8 (C) a deployment assessment conducted
9 under section 1074f(b)(2) of such title, as
10 amended by this section.

11 (3) The term “open burn pit” has the meaning
12 given that term in section 201(c) of the Dignified
13 Burial and Other Veterans’ Benefits Improvement
14 Act of 2012 (Public Law 112–260; 38 U.S.C. 527
15 note).

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