

House Bill 2522

Sponsored by Representative BUCKLEY; Representatives BARKER, BOQUIST, COWAN, ESQUIVEL, HUNT, SCHAUFLEER, SCOTT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Veterans' Affairs to provide information about depleted uranium and depleted uranium compounds and to assist veterans exposed to depleted uranium and depleted uranium compounds in obtaining health screening. Requires county veterans' service officers to provide information developed by department to veterans. Specifies that exposure to depleted uranium and depleted uranium compounds is condition requiring reports from physicians, statistical compilations and assessments of federal programs from Oregon Public Health Advisory Board and referrals to state and federal agencies for claims for injury caused by exposure.

A BILL FOR AN ACT

1
2 Relating to veterans' health benefits; creating new provisions; and amending ORS 406.450.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 6 of this 2007 Act:**

5 (1) **"Best practice health screening" means the best currently available test or method**
6 **employed by medical or healthcare professionals to detect the presence of, previous exposure**
7 **to or health effects attributable to depleted uranium or depleted uranium compounds, in-**
8 **cluding but not limited to bioassay procedures, radiation measurement, urinalysis or other**
9 **demonstrably reliable techniques.**

10 (2) **"Depleted uranium" means uranium in which the isotope U-235 is less than 0.711**
11 **weight percent of the total uranium sampled.**

12 (3) **"Depleted uranium compound" means depleted uranium in a chemical compound with**
13 **another element, including but not limited to uranium oxide, uranium hexafluoride or uranyl**
14 **nitrate, the chemical or radiological toxicity of which presents a potential risk to human**
15 **health.**

16 (4) **"Exposure classification" means a designation that the United States Department of**
17 **Defense, the United States Department of Veterans Affairs or any branch of the Armed**
18 **Forces of the United States has given to a veteran based on a description of the severity of**
19 **the incident or activity that resulted in the veteran's exposure to depleted uranium or de-**
20 **pleted uranium compounds.**

21 (5) **"Veteran" means any individual who resides in this state who served on active duty**
22 **in the Armed Forces of the United States for a period of not less than 180 days, any part of**
23 **which occurred after August 1, 1990, within the borders of Afghanistan, Iraq, Kuwait, Saudi**
24 **Arabia or any active theater of combat operations in Southwest Asia in which the Armed**
25 **Forces of the United States served as observers, advisers or combatants.**

26 **SECTION 2. (1) The Department of Veterans' Affairs shall develop and implement a**
27 **program to provide information to eligible veterans that:**

28 (a) **Identifies the individual veteran's likelihood of exposure to depleted uranium or de-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 pleted uranium compounds or that enables the veteran to assess the veteran's likelihood of
2 exposure;

3 (b) Describes possible hazards associated with exposure to depleted uranium and depleted
4 uranium compounds;

5 (c) Advises the veteran about the veteran's right to best practice health screening for
6 exposure to depleted uranium and depleted uranium compounds; and

7 (d) Assists the veteran with applications and supporting material necessary to obtain
8 best practice health screening from federal agencies or other agencies that provide such
9 services.

10 (2) The department shall make the information developed for the program described in
11 subsection (1) of this section available to county veterans' service officers appointed under
12 ORS 408.410 and may establish the successful provision of information and assistance to
13 veterans under the program as a service outcome for county veterans' service officers under
14 ORS 406.456.

15 (3) Moneys of public bodies, as defined in ORS 174.109, may not be used to pay for best
16 practice health screening or treatment services provided by an agency of the United States.

17 (4) For purposes of this section, a veteran is an "eligible veteran" if the veteran has re-
18 ceived an exposure classification or has reason to believe that the veteran was exposed to
19 depleted uranium or depleted uranium compounds.

20 SECTION 3. (1) A veteran, the veteran's spouse or surviving spouse or the parent or
21 guardian of the veteran's minor child may request and direct a physician or the senior
22 medical supervisor of a hospital or clinic to submit the report described in subsection (2) of
23 this section to the Department of Human Services if the physician or senior medical super-
24 visor:

25 (a) Has primary responsibility for the health screening or treatment of the veteran for
26 the veteran's exposure to depleted uranium or depleted uranium compounds while serving in
27 the Armed Forces of the United States; or

28 (b) Has primary responsibility for the treatment of the veteran's spouse, surviving spouse
29 or minor child who may be exhibiting symptoms or conditions that may be attributable to
30 the veteran's exposure to depleted uranium or depleted uranium compounds.

31 (2) The report submitted to the department under subsection (1) of this section shall be
32 on a form adopted by the department that shall list the symptoms commonly attributed to
33 exposure to depleted uranium or depleted uranium compounds and shall require the following
34 information:

35 (a) Symptoms of the veteran or the veteran's spouse, surviving spouse or minor child
36 that may be related to exposure to depleted uranium or to depleted uranium compounds.

37 (b) A diagnosis of the condition of the veteran or the veteran's spouse, surviving spouse
38 or minor child.

39 (c) Methods of treatment prescribed.

40 (d) Any other information the department may require for the purposes of implementing
41 this section.

42 (3) The department, after receiving a report from a physician, hospital or clinic under
43 this section, may require the veteran or the veteran's spouse, surviving spouse or minor
44 child to provide such other information as may be required by the department to complete
45 the report. Subject to subsection (4) of this section, the department shall make the com-

1 pleted report available to physicians and hospitals in this state.

2 (4) The report required under this section shall comply with the provisions of the Health
3 Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and any other applicable
4 law related to the protection of personally identifiable health or medical information.

5 **SECTION 4.** The Oregon Public Health Advisory Board shall:

6 (1) Order the compilation of statistical data from information obtained under section 3
7 of this 2007 Act and determine the use and dissemination of that data.

8 (2) Make recommendations to the Director of Human Services or the Director of Veter-
9 ans' Affairs concerning the implementation and operation of programs authorized by sections
10 2 and 5 of this 2007 Act.

11 (3) Assess programs of federal agencies operating for the benefit of veterans exposed to
12 depleted uranium or depleted uranium compounds and the veterans' families, and make rec-
13 ommendations to the appropriate agencies for the improvement of those programs.

14 (4) Suspend or terminate specific programs or duties required under sections 1 to 6 of
15 this 2007 Act when necessary to prevent duplication of those programs or duties by other
16 governmental agencies.

17 (5) Apply for, receive and accept any grants or contributions available from the United
18 States or any of its agencies for the purpose of carrying out sections 1 to 6 of this 2007 Act.

19 (6) When the advisory board considers it necessary for the health and welfare of veterans
20 and the spouses, surviving spouses and minor children of veterans, ask the Attorney General
21 to initiate proceedings as provided under section 6 of this 2007 Act.

22 (7) Report biennially to the Legislative Assembly or to the Emergency Board, as appro-
23 priate, on matters that are necessary to accomplish the objectives of sections 1 to 6 of this
24 2007 Act.

25 **SECTION 5.** (1) The Department of Human Services, in consultation with the Oregon
26 Public Health Advisory Board, shall institute a cooperative program to refer veterans to
27 appropriate state and federal agencies for the purpose of filing claims to remedy medical and
28 financial problems caused by exposure to depleted uranium or depleted uranium compounds.

29 (2) The Director of Human Services, after receiving the recommendations of the advisory
30 board, shall adopt rules to provide for the administration and operation of the program au-
31 thorized by this section. The director shall cooperate with appropriate state and federal
32 agencies in providing services under this section.

33 **SECTION 6.** (1) When requested to do so by the Director of Veterans' Affairs, the At-
34 torney General shall:

35 (a) Represent, on behalf of all of the members of the class, one or more members of the
36 class of veterans and veterans' spouses, surviving spouses and minor children who allege
37 injuries caused by exposure to or contact with depleted uranium or depleted uranium com-
38 pounds; and

39 (b) Appear for the class described in paragraph (a) of this subsection in any court or
40 before any administrative agency in any proceeding to compel release of individual medical
41 records, United States Department of Veterans Affairs medical and claim files or any other
42 information relating to the effects of exposure during military service to depleted uranium
43 or depleted uranium compounds.

44 (2) The expenses incurred by the Attorney General under this section shall be paid from
45 the General Fund.

1 **(3) The Attorney General shall seek a judgment ordering the payment of all expenses**
2 **incurred by the Attorney General from the agency against which the action was brought.**

3 **SECTION 7. (1) A physician, a hospital or clinic or the senior medical supervisor of a**
4 **hospital or clinic is not subject to any criminal or civil liability for providing information**
5 **required under sections 1 to 6 of this 2007 Act.**

6 **(2) This section does not prevent an action for negligence by a physician, hospital or**
7 **clinic that provides medical treatment.**

8 **SECTION 8.** ORS 406.450 is amended to read:

9 406.450. (1) The Director of Veterans' Affairs shall establish a program to enhance and expand
10 the services provided by county veterans' service officers appointed under ORS 408.410.

11 (2) The program shall:

12 (a) Conduct outreach and provide veterans and their spouses and dependents with:

13 (A) Information regarding veterans' benefit programs and other benefit programs; *[and]*

14 **(B) Information and assistance necessary to enable a veteran, as defined in section 1 of**
15 **this 2007 Act, to obtain best practice health screening for exposure to depleted uranium or**
16 **depleted uranium compounds; and**

17 ~~[(B)]~~ (C) Assistance by trained representatives who are certified by the state in applying for all
18 federal and state veterans' benefits and aid to which veterans and their spouses and dependents may
19 be entitled on account of their military service and in appealing any denial of veterans' benefits or
20 aid;

21 (b) Develop and offer informational materials and training opportunities for county veterans'
22 service officers;

23 (c) Develop a comprehensive and coordinated statewide network of information and referral re-
24 sources for veterans and their spouses and dependents;

25 (d) Ensure that the receipt of veterans' benefits or aid does not adversely impact other benefits
26 or aid that a veteran or the spouse or dependent of a veteran may be receiving or may be eligible
27 to receive; and

28 (e) Facilitate coordination of computer systems to ensure the seamless transfer of information.

29 **SECTION 9. Section 2 of this 2007 Act applies to all veterans as defined in section 1 of**
30 **this 2007 Act, the spouses, surviving spouses and minor children of the veterans and to all**
31 **physicians, hospitals and clinics in this state, whether public or private, that receive or**
32 **provide health screening or treatment on or after August 1, 1990.**