

Suspend the Rules and Pass the Bill, H.R. 299, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

115TH CONGRESS
1ST SESSION

H. R. 299

To amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2017

Mr. VALADAO (for himself, Mr. WALZ, Ms. STEFANIK, Mr. COURTNEY, Mr. ROSS, and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, 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 “Blue Water Navy Viet-
5 nam Veterans Act of 2018”.

1 **SEC. 2. CLARIFICATION OF PRESUMPTIONS OF EXPOSURE**
2 **FOR VETERANS WHO SERVED IN VICINITY OF**
3 **REPUBLIC OF VIETNAM.**

4 (a) IN GENERAL.—Chapter 11 of title 38, United
5 States Code, is amended by inserting after section 1116
6 the following new section:

7 **“§ 1116A. Presumptions of service connection for vet-**
8 **erans who served offshore of the Repub-**
9 **lic of Vietnam**

10 “(a) SERVICE CONNECTION.—For the purposes of
11 section 1110 of this title, and subject to section 1113 of
12 this title, a disease covered by section 1116 of this title
13 becoming manifest as specified in that section in a veteran
14 who, during active military, naval, or air service, served
15 offshore of the Republic of Vietnam during the period be-
16 ginning on January 9, 1962, and ending on May 7, 1975,
17 shall be considered to have been incurred in or aggravated
18 by such service, notwithstanding that there is no record
19 of evidence of such disease during the period of such serv-
20 ice.

21 “(b) EXPOSURE.—A veteran who, during active mili-
22 tary, naval, or air service, served offshore of the Republic
23 of Vietnam during the period beginning on January 9,
24 1962, and ending on May 7, 1975, shall be presumed to
25 have been exposed during such service to an herbicide
26 agent unless there is affirmative evidence to establish that

1 the veteran was not exposed to any such agent during that
2 service.

3 “(c) EFFECTIVE DATE OF AWARD.—(1) Except as
4 provided by paragraph (2), the effective date of an award
5 under this section shall be determined in accordance with
6 section 5110 of this title.

7 “(2)(A) Notwithstanding subsection (g) of section
8 5110 of this title, the Secretary shall determine the effec-
9 tive date of an award based on a claim under this section
10 for an individual described in subparagraph (B) by treat-
11 ing the date on which the individual filed the prior claim
12 specified in clause (i) of such subparagraph as the date
13 on which the individual filed the claim so awarded under
14 this section.

15 “(B) An individual described in this subparagraph is
16 a veteran, or a survivor of a veteran, who meets the fol-
17 lowing criteria:

18 “(i) The veteran or survivor submitted a claim
19 for disability compensation on or after September
20 25, 1985, and before January 1, 2019, for a disease
21 covered by this section, and the claim was denied by
22 reason of the claim not establishing that the disease
23 was incurred or aggravated by the service of the vet-
24 eran.

1 “(ii) The veteran or survivor submits a claim
2 for disability compensation on or after January 1,
3 2019, for the same condition covered by the prior
4 claim under clause (i), and the claim is approved
5 pursuant to this section.

6 “(d) DETERMINATION OF OFFSHORE.—Notwith-
7 standing any other provision of law, for purposes of this
8 section, the Secretary shall treat a location as being off-
9 shore of Vietnam if the location is not more than 12 nau-
10 tical miles seaward of a line commencing on the south-
11 western demarcation line of the waters of Vietnam and
12 Cambodia and intersecting the following points:

“Points Geographic Names	Latitude North	Lon- gitude East
At Hon Nhan Island, Tho Chu Archipelago Kien Giang Province	9°15.0’	103°27.0’
At Hon Da Island southeast of Hon Khoai Is- land Minh Hai Province	8°22.8’	104°52.4’
At Tai Lon Islet, Con Dao Islet in Con Dao- Vung Toa Special Sector	8°37.8’	106°37.5’
At Bong Lai Islet, Con Dao Islet	8°38.9’	106°40.3’
At Bay Canh Islet, Con Dao Islet	8°39.7’	106°42.1’
At Hon Hai Islet (Phu Qui group of islands) Thuan Hai Province	9°58.0’	109°5.0’
At Hon Doi Islet, Thuan Hai Province	12°39.0’	109°28.0’
At Dai Lanh point, Phu Khanh Province	12°53.8’	109°27.2’
At Ong Can Islet, Phu Khanh Province	13°54.0’	109°21.0’
At Ly Son Islet, Nghia Binh Province	15°23.1’	109° 9.0’
At Con Co Island, Binh Tri Thien Province	17°10.0’	107°20.6’

1 “(e) HERBICIDE AGENT.—In this section, the term
2 ‘herbicide agent’ has the meaning given that term in sec-
3 tion 1116 (a)(3) of this title.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of such chapter is amended by inserting
6 after the item relating to section 1116 the following new
7 item:

“1116A. Presumptions of service connection for veterans who served offshore of
the Republic of Vietnam.”.

8 (c) IMPLEMENTATION.—

9 (1) GUIDANCE.—Notwithstanding section 501
10 of such title, the Secretary of Veterans Affairs may
11 issue guidance to implement section 1116A of title
12 38, United States Code, as added by subsection (a).

13 (2) UPDATES.—On a quarterly basis during the
14 period beginning on the date of the enactment of
15 this Act and ending on the date on which regula-
16 tions are prescribed to carry out such section
17 1116A, the Secretary shall submit to the Commit-
18 tees on Veterans’ Affairs of the House of Represent-
19 atives and the Senate updates on the status of such
20 regulations.

21 (3) PENDING CASES.—

22 (A) AUTHORITY TO STAY.—The Secretary
23 may stay a claim described in subparagraph

24 (B) until the date on which the Secretary com-

1 mences the implementation of such section
2 1116A.

3 (B) CLAIMS DESCRIBED.—A claim de-
4 scribed in this subparagraph is a claim for dis-
5 ability compensation—

6 (i) relating to the service and diseases
7 covered by such section 1116A; and

8 (ii) that is pending at the Veterans
9 Benefits Administration or the Board of
10 Veterans' Appeals on or after the date of
11 the enactment of this Act and before the
12 date on which the Secretary commences
13 the implementation of such section 1116A.

14 (d) OUTREACH.—

15 (1) REQUIREMENT.—The Secretary of Veterans
16 Affairs shall conduct outreach to inform veterans de-
17 scribed in paragraph (2) of the ability to submit a
18 claim for disability compensation under section
19 1116A of title 38, United States Code, as added by
20 subsection (a).

21 (2) VETERAN DESCRIBED.—A veteran described
22 in this paragraph is a veteran who, during active
23 military, naval, or air service, served offshore of the
24 Republic of Vietnam during the period beginning on
25 January 9, 1962, and ending on May 7, 1975.

1 (e) REPORTS.—Not later than January 1, 2020, and
2 not later than January 1, 2022, the Secretary of Veterans
3 Affairs shall submit to the Committees on Veterans’ Af-
4 fairs of the House of Representatives and the Senate a
5 report on claims for disability compensation under section
6 1116A of title 38, United States Code, as added by sub-
7 section (a). Each report shall include the following with
8 respect to the period covered by the report, disaggregated
9 by the regional offices of the Department of Veterans Af-
10 fairs:

11 (1) The number of claims filed under such sec-
12 tion.

13 (2) The number of such claims granted.

14 (3) The number of such claims denied.

15 (f) HEALTH CARE.—Section 1710(e)(4) of title 38,
16 United States Code, is amended by inserting “(including
17 offshore of such Republic as described in section 1116A(d)
18 of this title)” after “served on active duty in the Republic
19 of Vietnam”.

20 (g) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on January 1, 2019.

1 **SEC. 3. PRESUMPTION OF HERBICIDE EXPOSURE FOR CER-**
2 **TAIN VETERANS WHO SERVED IN KOREA.**

3 (a) IN GENERAL.—Chapter 11 of title 38, United
4 States Code, is amended by inserting after section 1116A,
5 as added by section 2, the following new section:

6 **“§ 1116B. Presumption of herbicide exposure for cer-**
7 **tain veterans who served in Korea**

8 “(a) PRESUMPTION OF SERVICE-CONNECTION.—(1)
9 For the purposes of section 1110 of this title, and subject
10 to section 1113 of this title, a disease specified in sub-
11 section (b) that becomes manifest as specified in that sub-
12 section in a veteran described in paragraph (2) shall be
13 considered to have been incurred or aggravated in the line
14 of duty in the active military, naval, or air service, not-
15 withstanding that there is no record of evidence of such
16 disease during the period of such service.

17 “(2) A veteran described in this paragraph is a vet-
18 eran who, during active military, naval, or air service,
19 served in or near the Korean demilitarized zone (DMZ),
20 during the period beginning on September 1, 1967, and
21 ending on August 31, 1971.

22 “(b) DISEASES.—A disease specified in this sub-
23 section is—

24 “(1) a disease specified in paragraph (2) of
25 subsection (a) of section 1116 of this title that be-
26 comes manifest as specified in that paragraph; or

1 (A) relating to the service and diseases
2 covered by such section 1116B; and

3 (B) that is pending at the Veterans Bene-
4 fits Administration or the Board of Veterans'
5 Appeals on or after the date of the enactment
6 of this Act and before the date on which the
7 Secretary commences the implementation of
8 such section 1116B.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on January 1, 2019.

11 **SEC. 4. BENEFITS FOR CHILDREN OF CERTAIN THAILAND**

12 **SERVICE VETERANS BORN WITH SPINA**
13 **BIFIDA.**

14 (a) IN GENERAL.—Subchapter III of chapter 18 of
15 title 38, United States Code, is amended by adding at the
16 end the following new section:

17 **“§ 1822. Benefits for children of certain Thailand**
18 **service veterans born with spina bifida**

19 “(a) BENEFITS AUTHORIZED.—The Secretary may
20 provide to any child of a veteran of covered service in
21 Thailand who is suffering from spina bifida the health
22 care, vocational training and rehabilitation, and monetary
23 allowance required to be paid to a child of a Vietnam vet-
24 eran who is suffering from spina bifida under subchapter
25 I of this chapter as if such child of a veteran of covered

1 service in Thailand were a child of a Vietnam veteran who
2 is suffering from spina bifida under such subchapter.

3 “(b) SPINA BIFIDA CONDITIONS COVERED.—This
4 section applies with respect to all forms and manifesta-
5 tions of spina bifida, except spina bifida occulta.

6 “(c) VETERAN OF COVERED SERVICE IN THAI-
7 LAND.—For purposes of this section, a veteran of covered
8 service in Thailand is any individual, without regard to
9 the characterization of that individual’s service, who—

10 “(1) served in the active military, naval, or air
11 service in Thailand, as determined by the Secretary
12 in consultation with the Secretary of Defense, dur-
13 ing the period beginning on January 9, 1962, and
14 ending on May 7, 1975; and

15 “(2) is determined by the Secretary, in con-
16 sultation with the Secretary of Defense, to have been
17 exposed to a herbicide agent during such service in
18 Thailand.

19 “(d) HERBICIDE AGENT.—For purposes of this sec-
20 tion, the term ‘herbicide agent’ means a chemical in a her-
21 bicide used in support of United States and allied military
22 operations in Thailand, as determined by the Secretary in
23 consultation with the Secretary of Defense, during the pe-
24 riod beginning on January 9, 1962, and ending on May
25 7, 1975.”.

1 (b) CONFORMING AMENDMENT TO DEFINITION OF
2 “CHILD”.—Section 1831(1) of such title is amended—

3 (1) in subparagraph (B)—

4 (A) by striking “subchapter III of this
5 chapter” and inserting “section 1821 of this
6 title”; and

7 (B) in clause (i), by striking “section 1821
8 of this title” and inserting “that section”; and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(C) For purposes of section 1822 of this
12 title, an individual, regardless of age or marital
13 status, who—

14 “(i) is the natural child of a veteran
15 of covered service in Thailand (as deter-
16 mined for purposes of that section); and

17 “(ii) was conceived after the date on
18 which that veteran first entered service de-
19 scribed in subsection (e) of that section.”.

20 (c) CLERICAL AMENDMENTS.—

21 (1) SUBCHAPTER HEADING.—The heading for
22 subchapter III of chapter 18 of such title is amend-
23 ed by inserting “AND THAILAND” after
24 “KOREA”.

1 (2) TABLE OF SECTIONS.—The table of sections
2 at the beginning of chapter 18 of such title is
3 amended—

4 (A) by striking the item relating to sub-
5 chapter III and inserting the following new
6 item:

 “SUBCHAPTER III—CHILDREN OF CERTAIN KOREA AND THAILAND SERVICE
 VETERANS BORN WITH SPINA BIFIDA”;

7 and

8 (B) by inserting after the item relating to
9 section 1821 the following new item:

 “1822. Benefits for children of certain Thailand service veterans born with spina
 bifida.”.

10 (d) PENDING CASES.—

11 (1) AUTHORITY TO STAY.—The Secretary may
12 stay a claim described in subparagraph (B) until the
13 date on which the Secretary commences the imple-
14 mentation of section 1822 of title 38, United States
15 Code, as added by subsection (a).

16 (2) CLAIMS DESCRIBED.—A claim described in
17 this subparagraph is a claim for benefits—

18 (A) relating to the spina bifida and service
19 covered by such section 1822; and

20 (B) that is pending at the Veterans Bene-
21 fits Administration or the Board of Veterans’
22 Appeals on or after the date of the enactment
23 of this Act and before the date on which the

1 Secretary commences the implementation of
2 such section 1822.

3 (e) REPORT.—Not later than 180 days after the date
4 of the enactment of this Act, the Secretary of Veterans
5 Affairs, in consultation with the Secretary of Defense,
6 shall submit to the Committees on Veterans' Affairs of
7 the House of Representatives and the Senate a report
8 identifying—

9 (1) the military installations of the United
10 States located in Thailand during the period begin-
11 ning on January 9, 1962, and ending on May 7,
12 1975, at which an herbicide agent (as defined in sec-
13 tion 1822 of title 38, United States Code, as added
14 by subsection (a)) was actively used; and

15 (2) the period of such use.

16 (f) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on January 1, 2019.

18 **SEC. 5. UPDATED REPORT ON CERTAIN GULF WAR ILLNESS**

19 **STUDY.**

20 Not later than 180 days after the date of the enact-
21 ment of this Act, the Secretary of Veterans Affairs shall
22 submit to the Committees on Veterans' Affairs of the
23 House of Representatives and the Senate an updated re-
24 port on the findings, as of the date of the updated report,
25 of the Follow-up Study of a National Cohort of Gulf War

1 and Gulf Era Veterans under the epidemiology program
2 of the Department of Veterans Affairs.

3 **SEC. 6. LOANS GUARANTEED UNDER HOME LOAN PRO-**
4 **GRAM OF DEPARTMENT OF VETERANS AF-**
5 **FAIRS.**

6 (a) ADJUSTMENT OF LOAN LIMIT.—Section
7 3703(a)(1) of title 38, United States Code, is amended—

8 (1) in subparagraph (A)(i)(IV)—

9 (A) by striking “the lesser of”; and

10 (B) by striking “or 25 percent of the
11 loan”; and

12 (2) in subparagraph (C), by striking “Freddie
13 Mac” and all that follows through the period at the
14 end and inserting “amount of the loan.”.

15 (b) LOAN FEES.—Section 3729(b)(2) of such title is
16 amended by striking the loan fee table and inserting the
17 following:

“Type of loan	Active duty veteran	Reservist	Other obli- gor
(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before January 1, 2019)	2.15	2.40	NA

“Type of loan	Active duty veteran	Reservist	Other obli- gor
(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after January 1, 2019, and before December 1, 2027)	2.40	2.40	NA
(A)(iii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after December 1, 2027, and before October 1, 2028)	2.15	2.15	NA
(A)(iv) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2028)	1.40	1.40	NA
(B)(i) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2004, and before January 1, 2019)	3.30	3.30	NA
(B)(ii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after January 1, 2019, and before December 1, 2027)	3.80	3.80	NA
(B)(iii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after December 1, 2027, and before October 1, 2028)	3.30	3.30	NA
(B)(iv) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2028)	1.25	1.25	NA

“Type of loan	Active duty veteran	Reservist	Other obli- gor
(C)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed before January 1, 2019)	1.50	1.75	NA
(C)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after January 1, 2019, and before December 1, 2027)	1.75	1.75	NA
(C)(iii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after December 1, 2027, and before October 1, 2028)	1.50	1.50	NA
(C)(iv) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after October 1, 2028)	0.75	0.75	NA
(D)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed before January 1, 2019)	1.25	1.50	NA
(D)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after January 1, 2019, and before December 1, 2027)	1.45	1.45	NA
(D)(iii) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after December 1, 2027, and before October 1, 2028)	1.25	1.25	NA
(D)(iv) Loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after October 1, 2028)	0.50	0.50	NA
(E) Interest rate reduction refinancing loan	0.50	0.50	NA
(F) Direct loan under section 3711	1.00	1.00	NA
(G) Manufactured home loan under section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA
(H) Loan to Native American veteran under section 3762 (other than an interest rate reduction refinancing loan)	1.25	1.25	NA
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733(a)	2.25	2.25	2.25”.

1 (c) WAIVER OF FEES FOR PURPLE HEART RECIPI-
2 ENTS; COLLECTION OF CERTAIN LOAN FEES.—Section
3 3729(c) of such title is amended—

4 (1) in paragraph (1)—

5 (A) by striking “A fee” and inserting
6 “Subject to paragraph (3), a fee”;

7 (B) by striking “or from a surviving
8 spouse” and inserting “, from a surviving
9 spouse”; and

10 (C) by inserting before the period at the
11 end the following: “, or from a member of the
12 Armed Forces serving on active duty who was
13 awarded the Purple Heart”.

14 (2) by adding at the end the following new
15 paragraph:

16 “(3) A fee shall be collected under this section from
17 any veteran with a service-connected disability rated as
18 less than total, any surviving spouse of such a veteran,
19 and any member of the Armed Forces who, on or after
20 January 1, 2019, receives a loan in an amount that ex-
21 ceeds the Freddie Mac conforming loan limit limitation de-
22 termined under section 305(a)(2) of the Federal Home
23 Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2))
24 for a single-family residence, as adjusted for the year in-
25 volved.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to a loan guaranteed
3 under section 3710 of title 38, United States Code, on
4 or after January 1, 2019.

5 (e) GUIDANCE.—Notwithstanding section 501 of such
6 title, the Secretary of Veterans Affairs may issue guidance
7 to implement this section before prescribing new regula-
8 tions under sections 3703 and 3729 of such title, as
9 amended by subsections (a), (b), and (c).

10 **SEC. 7. INFORMATION GATHERING FOR DEPARTMENT OF**
11 **VETERANS AFFAIRS HOME LOAN APPRAIS-**
12 **ALS.**

13 (a) IN GENERAL.—Section 3731(b) of title 38,
14 United States Code, is amended by adding at the end the
15 following new paragraph:

16 “(3) The Secretary shall permit an appraiser on a
17 list developed and maintained under subsection (a)(3) to
18 make an appraisal for the purposes of this chapter based
19 solely on information gathered by a person with whom the
20 appraiser has entered into an agreement for such serv-
21 ices.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply with respect to an appraisal under
24 section 3731 of such title, on or after January 1, 2019.

1 (c) GUIDANCE.—Notwithstanding section 501 of such
2 title, the Secretary of Veterans Affairs may issue guidance
3 to implement this section before prescribing new regula-
4 tions under sections 3731 of such title, as amended by
5 subsection (a).