

By: Capelo

H.B. No. 3162

A BILL TO BE ENTITLED

AN ACT

relating to certain diseases or illnesses suffered by certain emergency first responders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 607, Government Code, is amended to read as follows:

CHAPTER 607. BENEFITS RELATING TO CERTAIN [~~CONTAGIOUS~~] DISEASES
AND ILLNESSES

SECTION 2. Sections 607.001 through 607.004, Government Code, are designated as Subchapter A, Chapter 607, and a heading for that subchapter is added to read as follows:

SUBCHAPTER A. CONTAGIOUS DISEASES

SECTION 3. Chapter 607, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY FIRST RESPONDERS

Sec. 607.051. DEFINITION. In this subchapter, "first responder" means:

(1) a public safety employee whose duties include responding rapidly to an emergency to be the first person to arrive at the scene of the emergency;

(2) a person who is defined as fire protection personnel under Section 419.021;

(3) a volunteer fire fighter certified by the Texas Commission on Fire Protection or by a governmental unit as

1 authorized by the Texas Department of Insurance;

2 (4) a peace officer, fire fighter, or emergency
3 medical services employee who provides that service under an
4 interlocal agreement; and

5 (5) an individual certified as an emergency medical
6 technician by the Texas Department of Health.

7 Sec. 607.052. APPLICABILITY. Notwithstanding any other
8 law, this subchapter applies to:

9 (1) a first responder who:

10 (A) on becoming or during employment as a first
11 responder, received a physical examination that failed to reveal
12 evidence of the illness or disease for which benefits or
13 compensation is sought using a presumption established by this
14 subchapter; and

15 (B) is employed for five or more years as a first
16 responder; and

17 (2) a former first responder who was employed for five
18 or more years as a first responder and is suffering from a disease
19 or illness:

20 (A) for which a benefit or compensation is sought
21 using a presumption established by this subchapter; and

22 (B) that is discovered before the fifth
23 anniversary of the date the person was last employed as a first
24 responder.

25 Sec. 607.053. DISABILITY OR DEATH FROM IMMUNIZATION. (a) A
26 first responder is presumed to have suffered a disability or death
27 during the course and scope of employment if the first responder:

1 (1) received preventative immunization against
2 smallpox or another disease to which the first responder may be
3 exposed during the course and scope of employment and for which
4 immunization is possible; and

5 (2) suffered total or partial disability or death as a
6 result of the immunization.

7 (b) An immunization described by this section is considered
8 preventative whether the immunization occurs before or after
9 exposure to the disease for which the immunization is prescribed.

10 (c) A presumption established under Subsection (a) may not
11 be rebutted by evidence that the immunization was:

12 (1) not required by the employer;

13 (2) not required by law; or

14 (3) received voluntarily or with the consent of the
15 first responder.

16 (d) A first responder who suffers from smallpox that results
17 in total or partial disability or death is presumed to have
18 contracted the disease during the course and scope of employment as
19 a first responder.

20 Sec. 607.054. LUNG DISEASE OR ILLNESS. (a) A first
21 responder who suffers from tuberculosis or any other disease or
22 illness of the lungs or respiratory tract that results in total or
23 partial disability or death is presumed to have contracted the
24 disease or illness during the course and scope of employment as a
25 first responder.

26 (b) If the disease or illness for which benefits or
27 compensation is sought is known to be caused by the habitual use of

1 tobacco, a presumption under Subsection (a) may be rebutted by
2 credible evidence that the employee was a habitual user of tobacco
3 within the five years preceding the date the claim is filed.

4 Sec. 607.055. CANCER. (a) A first responder who suffers
5 from cancer described by this section resulting in total or partial
6 disability or death is presumed to have developed the cancer during
7 the course and scope of employment as a first responder.

8 (b) This section applies only if:

9 (1) the person regularly responded on the scene to
10 calls involving fires or fire fighting or responded to an event
11 involving the release of pollutants, radiation, or carcinogens
12 while the person was employed as a first responder; and

13 (2) the cancer is:

14 (A) a type of cancer described by Subsection (c);

15 or

16 (B) associated with fire fighting or exposure to
17 heat, pollutants, smoke, radiation, or a known or suspected
18 carcinogen as described by Subsection (d).

19 (c) This section applies to a cancerous condition that
20 affects the:

21 (1) central nervous system;

22 (2) digestive system;

23 (3) cardiovascular system;

24 (4) hematological system;

25 (5) lymphatic system;

26 (6) mouth;

27 (7) prostate;

- 1 (8) skeletal system;
- 2 (9) skin;
- 3 (10) urinary system;
- 4 (11) breast; or
- 5 (12) reproductive system.

6 (d) This section applies to any type of cancer that the
7 Texas Department of Health verifies as having a statistically
8 positive correlation with service as a first responder. The
9 department is not required to collect and maintain data on types of
10 cancer and causation for purposes of this section but may rely on
11 information and data published by the International Agency for
12 Research on Cancer.

13 Sec. 607.056. EFFECT OF PRESUMPTION. The presumption
14 established under this subchapter applies to a determination of
15 whether a first responder's disability or death resulted from a
16 disease or illness contracted in the course and scope of employment
17 for purposes of benefits or compensation provided under another
18 employee benefit, law, or plan, including a pension plan.

19 Sec. 607.057. PRESUMPTION REBUTTABLE. A presumption under
20 Section 607.053, 607.054, or 607.055 may be rebutted through a
21 showing by a preponderance of the evidence that a risk factor,
22 accident, or hazard not associated with the individual's service as
23 a first responder caused the person's disease or illness.

24 Sec. 607.058. LIMITATION ON CERTAIN BENEFITS. Any benefits
25 to which a person described by Section 607.052(2) is entitled in
26 accordance with a presumption established under this subchapter
27 shall be paid from the last date on which the person received

1 regular compensation as a first responder.

2 SECTION 4. The changes in law made by this Act apply to a
3 claim for benefits or compensation brought on or after the
4 effective date of this Act. A claim for benefits or compensation
5 brought before the effective date of this Act is covered by the law
6 in effect on the date the claim was made, and that law is continued
7 in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2003.