

GOVERNMENT CODE

CHAPTER 607. BENEFITS RELATING TO CERTAIN DISEASES AND ILLNESSES
SUBCHAPTER A. CONTAGIOUS DISEASES

Sec. 607.001. DEFINITION. In this chapter, "public safety employee" means a peace officer, fire fighter, detention officer, county jailer, or emergency medical services employee of this state or a political subdivision of this state.
Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2005, 79th Leg., ch. 986, Sec. 1, eff. Sept. 1, 2005.

Sec. 607.002. REIMBURSEMENT. A public safety employee who is exposed to a contagious disease is entitled to reimbursement from the employing governmental entity for reasonable medical expenses incurred in treatment for the prevention of the disease if:

(1) the disease is not an "ordinary disease of life" as that term is used in the context of a workers' compensation claim;

(2) the exposure to the disease occurs during the course of the employment; and

(3) the employee requires preventative medical treatment because of exposure to the disease.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 607.003. PHYSICIAN OF CHOICE. A public safety employee who is exposed to a disease described by Section 607.002 is entitled to be treated for the prevention of that disease by the physician of the employee's choice.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 607.004. PREVENTATIVE IMMUNIZATIONS AND VACCINATIONS. (a) A certified fire fighter or other governmental employee who operates an ambulance or who responds to emergency medical calls is entitled to preventative immunization for any disease to which the fire fighter or other governmental employee may be exposed in performing official duties and for which immunization is possible.

(b) The employee and any member of the employee's immediate family are entitled to vaccination for a contagious disease to which the employee is exposed during the course of employment.

(c) The employing governmental entity may satisfy the requirements of this section by:

(1) providing the immunization or vaccination without charge; or

(2) reimbursing the employee for any necessary and reasonable expenses incurred by the employee for the immunization or vaccination.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY FIREFIGHTERS AND
EMERGENCY MEDICAL TECHNICIANS

Sec. 607.051. DEFINITIONS. In this subchapter:

(1) "Disability" means partial or total disability.

(2) "Emergency medical technician" means an individual who is certified as an emergency medical technician by the Department of State Health Services as provided by Chapter 773, Health and Safety Code, and who is employed by a political subdivision.

(3) "Firefighter" means:

(A) an individual who is defined as fire protection personnel under Section 419.021; or

(B) an individual who is a volunteer firefighter certified by the Texas Commission on Fire Protection or the State Firemen's and Fire Marshals' Association of Texas.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.052. APPLICABILITY. (a) Notwithstanding any other law, this subchapter applies only to a firefighter or emergency medical technician who:

(1) on becoming employed or during employment as a firefighter or emergency medical technician, received a physical examination that failed to reveal evidence of the illness or disease for which benefits or compensation are sought using a presumption established by this subchapter;

(2) is employed for five or more years as a firefighter or emergency medical technician; and

(3) seeks benefits or compensation for a disease or illness covered by this subchapter that is discovered during employment as a firefighter or emergency medical technician.

(b) A presumption under this subchapter does not apply:

(1) to a determination of a survivor's eligibility for benefits under Chapter 615;

(2) in a cause of action brought in a state or federal court except for judicial review of a proceeding in which there has been a grant or denial of employment-related benefits or compensation;

(3) to a determination regarding benefits or compensation under a life or disability insurance policy purchased by or on behalf of the firefighter or emergency medical technician that provides coverage in addition to any benefits or compensation required by law; or

(4) if the disease or illness for which benefits or compensation is sought is known to be caused by the use of tobacco and:

(A) the firefighter or emergency medical technician is or has been a user of tobacco; or

(B) the firefighter's or emergency medical technician's spouse has, during the marriage, been a user of tobacco that is consumed through smoking.

(c) This subchapter does not create a cause of action.

(d) This subchapter does not enlarge or establish a right to any benefit or compensation or eligibility for any benefit or compensation.

(e) A firefighter or emergency medical technician who uses a presumption established under this subchapter is entitled only to the benefits or compensation to which the firefighter or emergency medical technician would otherwise be entitled to receive at the time the claim for benefits or compensation is filed.

(f) For purposes of this subchapter, an individual described by Section 607.051(3)(B) is considered to have been employed or compensated while the individual actively served as a volunteer firefighter. An individual who actively serves as a volunteer firefighter is one who participates in a minimum of 40 percent of the drills conducted by the individual's department and 25 percent of the fire or other emergency calls received by the department during the time that the volunteer firefighter is on call.

(g) This subchapter applies to a firefighter or emergency medical technician who provides services as an employee of an entity created by an interlocal agreement.

(h) Subsection (b)(4) only prevents the application of the presumption authorized by this subchapter and does not affect the right of a firefighter or emergency medical technician to provide proof, without the use of that presumption, that an injury or illness occurred during the course and scope of employment.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.053. IMMUNIZATION; SMALLPOX. (a) A firefighter or emergency medical technician is presumed to have suffered a disability or death during the course and scope of employment if the firefighter or emergency medical technician:

(1) received preventative immunization against smallpox, or another disease to which the firefighter or emergency medical technician may be exposed during the course and scope of employment and for which immunization is possible; and

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

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

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

(1) not required by the employer;

(2) not required by law; or

(3) received voluntarily or with the consent of the firefighter or emergency medical technician.

(d) A firefighter or emergency medical technician who suffers from smallpox that results in death or total or partial disability is presumed to have contracted the disease during the course and scope of employment as a firefighter or emergency medical technician.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS. A firefighter or emergency medical technician who suffers from tuberculosis, or any other disease or illness of the lungs or respiratory tract that has a statistically positive correlation

with service as a firefighter or emergency medical technician, that results in death or total or partial disability is presumed to have contracted the disease or illness during the course and scope of employment as a firefighter or emergency medical technician.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.055. CANCER. (a) A firefighter or emergency medical technician who suffers from cancer resulting in death or total or partial disability is presumed to have developed the cancer during the course and scope of employment as a firefighter or emergency medical technician if:

- (1) the firefighter or emergency medical technician:
 - (A) regularly responded on the scene to calls involving fires or fire fighting; or
 - (B) regularly responded to an event involving the documented release of radiation or a known or suspected carcinogen while the person was employed as a firefighter or emergency medical technician; and
- (2) the cancer is known to be associated with fire fighting or exposure to heat, smoke, radiation, or a known or suspected carcinogen, as described by Subsection (b).

(b) This section applies only to a type of cancer that may be caused by exposure to heat, smoke, radiation, or a known or suspected carcinogen as determined by the International Agency for Research on Cancer.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.056. ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) A firefighter or emergency medical technician who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment as a firefighter or emergency medical technician if:

- (1) while on duty, the firefighter or emergency medical technician:
 - (A) was engaged in a situation that involved nonroutine stressful or strenuous physical activity involving fire suppression, rescue, hazardous material response, emergency medical services, or other emergency response activity; or
 - (B) participated in a training exercise that involved nonroutine stressful or strenuous physical activity; and
- (2) the acute myocardial infarction or stroke occurred while the firefighter or emergency medical technician was engaging in the activity described under Subdivision (1).

(b) For purposes of this section, "nonroutine stressful or strenuous physical activity" does not include clerical, administrative, or nonmanual activities.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.057. EFFECT OF PRESUMPTION. Except as provided by Section 607.052(b), a presumption established under this subchapter applies to a determination of whether a firefighter's or emergency medical technician's disability or death resulted from a disease or illness contracted in the course and scope of employment for purposes of benefits or compensation provided under another employee benefit, law, or plan, including a pension plan.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.058. PRESUMPTION REBUTTABLE. A presumption under Section 607.053, 607.054, 607.055, or 607.056 may be rebutted through a showing by a preponderance of the evidence that a risk factor, accident, hazard, or other cause not associated with the individual's service as a firefighter or emergency medical technician caused the individual's disease or illness.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.

Sec. 607.059. PROHIBITED PAYMENT. No payment shall be made to the subsequent injury fund under Section 403.007, Labor Code, for any death resulting from a disease or illness presumed to have been contracted in the course and scope of employment under this subchapter.

Added by Acts 2005, 79th Leg., ch. 695, Sec. 3, eff. Sept. 1, 2005.