

1-1 By: Lucio S.B. No. 1582
 1-2 (In the Senate - Filed March 5, 2019; March 14, 2019, read
 1-3 first time and referred to Committee on Intergovernmental
 1-4 Relations; April 3, 2019, reported favorably by the following
 1-5 vote: Yeas 6, Nays 0; April 3, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Lucio	X			
1-8 Schwertner	X			
1-9 Alvarado	X			
1-10 Campbell	X			
1-11 Fallon	X			
1-12 Menéndez			X	
1-13 Nichols	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to benefits for peace officers relating to certain
 1-18 diseases or illnesses.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 607.004(a), Government Code, is amended
 1-21 to read as follows:

1-22 (a) A certified fire fighter, peace officer, or other
 1-23 governmental employee who operates an ambulance or who responds to
 1-24 emergency medical calls is entitled to preventative immunization
 1-25 for any disease to which the fire fighter, peace officer, or other
 1-26 governmental employee may be exposed in performing official duties
 1-27 and for which immunization is possible.

1-28 SECTION 2. The heading to Subchapter B, Chapter 607,
 1-29 Government Code, is amended to read as follows:

1-30 SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY FIREFIGHTERS,
 1-31 PEACE OFFICERS, AND EMERGENCY MEDICAL TECHNICIANS

1-32 SECTION 3. Section 607.051, Government Code, is amended by
 1-33 adding Subdivision (4) to read as follows:

1-34 (4) "Peace officer" means an individual elected,
 1-35 appointed, or employed to serve as a peace officer for a
 1-36 governmental entity under Article 2.12, Code of Criminal Procedure,
 1-37 or other law.

1-38 SECTION 4. Sections 607.052(a), (b), (e), (g), and (h),
 1-39 Government Code, are amended to read as follows:

1-40 (a) Notwithstanding any other law, this subchapter applies
 1-41 only to a firefighter, peace officer, or emergency medical
 1-42 technician who:

1-43 (1) on becoming employed or during employment as a
 1-44 firefighter, peace officer, or emergency medical technician,
 1-45 received a physical examination that failed to reveal evidence of
 1-46 the illness or disease for which benefits or compensation are
 1-47 sought using a presumption established by this subchapter;

1-48 (2) is employed for five or more years as a
 1-49 firefighter, peace officer, or emergency medical technician; and

1-50 (3) seeks benefits or compensation for a disease or
 1-51 illness covered by this subchapter that is discovered during
 1-52 employment as a firefighter, peace officer, or emergency medical
 1-53 technician.

1-54 (b) A presumption under this subchapter does not apply:

1-55 (1) to a determination of a survivor's eligibility for
 1-56 benefits under Chapter 615;

1-57 (2) in a cause of action brought in a state or federal
 1-58 court except for judicial review of a proceeding in which there has
 1-59 been a grant or denial of employment-related benefits or
 1-60 compensation;

1-61 (3) to a determination regarding benefits or

2-1 compensation under a life or disability insurance policy purchased
2-2 by or on behalf of the firefighter, peace officer, or emergency
2-3 medical technician that provides coverage in addition to any
2-4 benefits or compensation required by law; or

2-5 (4) if the disease or illness for which benefits or
2-6 compensation is sought is known to be caused by the use of tobacco
2-7 and:

2-8 (A) the firefighter, peace officer, or emergency
2-9 medical technician is or has been a user of tobacco; or

2-10 (B) the firefighter's, peace officer's, or
2-11 emergency medical technician's spouse has, during the marriage,
2-12 been a user of tobacco that is consumed through smoking.

2-13 (e) A firefighter, peace officer, or emergency medical
2-14 technician who uses a presumption established under this subchapter
2-15 is entitled only to the benefits or compensation to which the
2-16 firefighter, peace officer, or emergency medical technician would
2-17 otherwise be entitled to receive at the time the claim for benefits
2-18 or compensation is filed.

2-19 (g) This subchapter applies to a firefighter, peace
2-20 officer, or emergency medical technician who provides services as
2-21 an employee of an entity created by an interlocal agreement.

2-22 (h) Subsection (b)(4) only prevents the application of the
2-23 presumption authorized by this subchapter and does not affect the
2-24 right of a firefighter, peace officer, or emergency medical
2-25 technician to provide proof, without the use of that presumption,
2-26 that an injury or illness occurred during the course and scope of
2-27 employment.

2-28 SECTION 5. Sections 607.053(a), (c), and (d), Government
2-29 Code, are amended to read as follows:

2-30 (a) A firefighter, peace officer, or emergency medical
2-31 technician is presumed to have suffered a disability or death
2-32 during the course and scope of employment if the firefighter, peace
2-33 officer, or emergency medical technician:

2-34 (1) received preventative immunization against
2-35 smallpox, or another disease to which the firefighter, peace
2-36 officer, or emergency medical technician may be exposed during the
2-37 course and scope of employment and for which immunization is
2-38 possible; and

2-39 (2) suffered death or total or partial disability as a
2-40 result of the immunization.

2-41 (c) A presumption established under Subsection (a) may not
2-42 be rebutted by evidence that the immunization was:

2-43 (1) not required by the employer;

2-44 (2) not required by law; or

2-45 (3) received voluntarily or with the consent of the
2-46 firefighter, peace officer, or emergency medical technician.

2-47 (d) A firefighter, peace officer, or emergency medical
2-48 technician who suffers from smallpox that results in death or total
2-49 or partial disability is presumed to have contracted the disease
2-50 during the course and scope of employment as a firefighter, peace
2-51 officer, or emergency medical technician.

2-52 SECTION 6. Section 607.054, Government Code, is amended to
2-53 read as follows:

2-54 Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS. A
2-55 firefighter, peace officer, or emergency medical technician who
2-56 suffers from tuberculosis, or any other disease or illness of the
2-57 lungs or respiratory tract that has a statistically positive
2-58 correlation with service as a firefighter, peace officer, or
2-59 emergency medical technician, that results in death or total or
2-60 partial disability is presumed to have contracted the disease or
2-61 illness during the course and scope of employment as a firefighter,
2-62 peace officer, or emergency medical technician.

2-63 SECTION 7. Section 607.056(a), Government Code, is amended
2-64 to read as follows:

2-65 (a) A firefighter, peace officer, or emergency medical
2-66 technician who suffers an acute myocardial infarction or stroke
2-67 resulting in disability or death is presumed to have suffered the
2-68 disability or death during the course and scope of employment as a
2-69 firefighter, peace officer, or emergency medical technician if:

3-1 (1) while on duty, the firefighter, peace officer, or
3-2 emergency medical technician:

3-3 (A) was engaged in a situation that involved
3-4 nonroutine stressful or strenuous physical activity involving fire
3-5 suppression, rescue, hazardous material response, emergency
3-6 medical services, or other emergency response activity; or

3-7 (B) participated in a training exercise that
3-8 involved nonroutine stressful or strenuous physical activity; and

3-9 (2) the acute myocardial infarction or stroke occurred
3-10 while the firefighter, peace officer, or emergency medical
3-11 technician was engaging in the activity described under Subdivision
3-12 (1).

3-13 SECTION 8. Sections 607.057 and 607.058, Government Code,
3-14 are amended to read as follows:

3-15 Sec. 607.057. EFFECT OF PRESUMPTION. Except as provided by
3-16 Section 607.052(b), a presumption established under this
3-17 subchapter applies to a determination of whether a firefighter's,
3-18 peace officer's, or emergency medical technician's disability or
3-19 death resulted from a disease or illness contracted in the course
3-20 and scope of employment for purposes of benefits or compensation
3-21 provided under another employee benefit, law, or plan, including a
3-22 pension plan.

3-23 Sec. 607.058. PRESUMPTION REBUTTABLE. (a) A presumption
3-24 under Section 607.053, 607.054, 607.055, or 607.056 may be rebutted
3-25 through a showing by a preponderance of the evidence that a risk
3-26 factor, accident, hazard, or other cause not associated with the
3-27 individual's service as a firefighter, peace officer, or emergency
3-28 medical technician caused the individual's disease or illness.

3-29 (b) A rebuttal offered under this section must include a
3-30 statement by the person offering the rebuttal that describes, in
3-31 detail, the evidence that the person reviewed before making the
3-32 determination that a cause not associated with the individual's
3-33 service as a firefighter, peace officer, or emergency medical
3-34 technician caused the individual's disease or illness.

3-35 SECTION 9. The changes in law made by this Act apply to a
3-36 claim for benefits or compensation brought on or after the
3-37 effective date of this Act. A claim for benefits or compensation
3-38 brought before that date is covered by the law in effect on the date
3-39 the claim was made, and that law is continued in effect for that
3-40 purpose.

3-41 SECTION 10. This Act takes effect September 1, 2019.

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