

By: Martinez

H.B. No. 2854

A BILL TO BE ENTITLED

AN ACT

relating to certain claims for benefits or compensation by
firefighters and emergency medical technicians or their survivors.

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

SECTION 1. Sections 607.052(b) and (h), Government Code,
are amended to read as follows:

(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;

(2) ~~[(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

(3) ~~[(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

1 technician's spouse has, during the marriage, been a user of
2 tobacco that is consumed through smoking.

3 (h) Subsection (b)(3) [~~(b)(4)~~] only prevents the
4 application of the presumption authorized by this subchapter and
5 does not affect the right of a firefighter or emergency medical
6 technician to provide proof, without the use of that presumption,
7 that an injury or illness occurred during the course and scope of
8 employment.

9 SECTION 2. Section 607.055, Government Code, is amended to
10 read as follows:

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

16 (1) the firefighter or emergency medical technician:

17 (A) regularly responded on the scene to calls
18 involving fires or fire fighting; or

19 (B) regularly responded to an event involving the
20 documented release of radiation or a known or suspected carcinogen
21 while the person was employed as a firefighter or emergency medical
22 technician; and

23 (2) either:

24 (A) the cancer is known to be associated with
25 fire fighting or exposure to heat, smoke, radiation, or a known or
26 suspected carcinogen[7] as determined by the International Agency
27 for Research on Cancer; or

1 (B) the firefighter's or emergency medical
2 technician's treating physician believes, with reasonable medical
3 probability, that the cancer is not the result of other known causes
4 [described by Subsection (b)].

5 (b) The presumption established by Subsection (a) does not
6 apply to a type of cancer that has been proven to not be caused by
7 fire fighting or ~~[This section applies only to a type of cancer that~~
8 ~~may be caused by]~~ exposure to heat, smoke, radiation, or a known or
9 suspected carcinogen ~~[as determined by the International Agency for~~
10 ~~Research on Cancer]~~.

11 SECTION 3. Section 615.021(d), Government Code, is amended
12 to read as follows:

13 (d) In a determination of whether the survivor of an
14 individual listed under Section 615.003 is eligible for the payment
15 of assistance under this chapter, any reasonable doubt arising from
16 the circumstances of the individual's death, including whether a
17 presumption under Subchapter B, Chapter 607, applies, shall be
18 resolved in favor of the payment of assistance to the survivor.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2015.