

LABOR CODE

TITLE 5. WORKERS' COMPENSATION

SUBTITLE C. WORKERS' COMPENSATION INSURANCE COVERAGE FOR CERTAIN
GOVERNMENT EMPLOYEES

CHAPTER 505. WORKERS' COMPENSATION INSURANCE COVERAGE FOR
EMPLOYEES OF TEXAS DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 505.001. DEFINITIONS. (a) In this chapter:

(1) Repealed by Acts 2005, 79th Leg., Ch. 265, Sec. 7.01(32), eff. September 1, 2005.

(2) "Department" means the Texas Department of Transportation.

(3) "Employee" means a person in the service of the department under an appointment or express contract of hire and whose name appears on the department's payroll.

(4) "Legal beneficiary" has the meaning assigned to that term under Section 401.011.

(b) A reference in this chapter to an employee who has been injured includes the employee's legal beneficiary if the injured employee is dead.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 7.01(32), eff. September 1, 2005.

Sec. 505.002. APPLICATION OF GENERAL WORKERS' COMPENSATION LAWS; LIMIT ON ACTIONS AND DAMAGES. (a) The following provisions of Subtitles A and B apply to and are included in this chapter except to the extent that they are inconsistent with this chapter:

(1) Chapter 401, other than Section 401.012, defining "employee";

(2) Chapter 402;

(3) Chapter 403, other than Sections 403.001-403.005;

(4) Chapters 404 and 405;

(5) Subchapters B, D, E, and H, Chapter 406, other than

Sections 406.071-406.073, and 406.075;

(6) Chapter 408, other than Sections 408.001(b) and (c);

(7) Chapters 409 and 410;

(8) Subchapters A and G, Chapter 411, other than Sections 411.003 and 411.004;

(9) Chapters 412-417; and

(10) Chapter 451.

(b) For the purpose of applying the provisions listed by Subsection (a) to this chapter, "employer" means "department."

(c) Neither this chapter nor Subtitle A authorizes a cause of action or damages against the department or an employee of the department beyond the actions and damages authorized by Chapter 101, Civil Practice and Remedies Code.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.323, eff. September 1, 2005.

SUBCHAPTER B. COVERAGE

Sec. 505.011. WORKERS' COMPENSATION COVERAGE FOR DEPARTMENT EMPLOYEES. The department shall pay benefits as provided by this chapter to an employee with a compensable injury.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 505.012. AUTHORITY TO SELF-INSURE. The department may self-insure.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 505.013. INDIVIDUALS EMPLOYED BY SUBCONTRACTORS. (a) Except as provided by Subsection (b), an individual employed by a subcontractor performing work under contract with the department is not considered an employee for purposes of this chapter.

(b) The department shall treat a person leasing a tractor, a truck, mowing or cutting machinery, or other equipment to the department and using the equipment to perform work under a contract

with the department:

(1) as an independent contractor, and the department shall require the person, while performing the contract, to provide life, health and accident, and disability insurance for the person and any individual employed by the person to perform the contract in an amount and with coverage approved by the Texas Department of Insurance as substantially the same as provided for under workers' compensation insurance;

(2) as an employee of the state for workers' compensation purposes, and the department shall require the person to provide workers' compensation insurance for each individual employed by the person to perform the contract, in which case this chapter applies to the person and the individuals employed by the person without regard to the number of individuals employed; or

(3) as an employee of the state for workers' compensation purposes, and each individual employed by that person to perform the contract as an employee of the state for workers' compensation purposes.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. ADMINISTRATION

Sec. 505.051. ADMINISTRATION; RULES; FORMS. (a) The department shall administer this chapter.

(b) Process and procedure under this chapter shall be as summary as possible.

(c) The department may:

(1) adopt rules and prescribe and furnish forms necessary to effectively administer this chapter; and

(2) adopt and enforce necessary rules for the prevention of accidents and injuries.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 505.052. PERCENTAGE OF PAYROLL SET ASIDE FOR WORKERS' COMPENSATION EXPENSES; ACCOUNT; REPORTS. (a) The department may set aside from its available appropriations, other than itemized appropriations, an amount not exceeding three and one-half percent

of the department's annual payroll for the payment of administrative expenses, charges, benefits, and awards under this chapter.

(b) The amount set aside under Subsection (a) shall be set up in a separate account in the department's records. The balance of the account at any time may not exceed an amount equal to three and one-half percent of the department's annual payroll.

(c) The account shall show the disbursements authorized by this chapter. A statement of the amount set aside for the account and the disbursements from the account shall be included in the reports made to the governor and the legislature as required by law. Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 505.053. CERTIFIED COPIES OF DIVISION DOCUMENTS. (a) The division of workers' compensation shall furnish a certified copy of an order, award, decision, or paper on file with the division to a person entitled to the copy on written request and payment of the fee for the copy. The fee shall be the same as that charged for similar services by the secretary of state's office.

(b) The department may obtain certified copies under this section without charge.

(c) A fee or salary may not be paid to an employee of the division of workers' compensation for making the copies that exceeds the fee charged for the copies.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.324, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.325, eff. September 1, 2005.

Sec. 505.054. PREEMPLOYMENT PHYSICAL; EXAMINING PHYSICIANS. (a) The department may require that an individual may not be certified as an employee of the department under this chapter until the individual:

(1) submits to a physical examination as provided by this section; and

(2) is certified by the examining physician to be physically fit to perform the duties and services to which the individual is to be assigned.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 395 (S.B. 1323), Sec. 3, eff. June 7, 2021.

(c) The department may designate a convenient number of regularly licensed practicing physicians to make physical examinations of individuals to determine if the individuals are physically fit for employment with the department.

(d) A physician designated under Subsection (c) who conducts an examination shall file with the department a complete transcript of the examination on a form furnished by the department. The department shall maintain all reports under this subsection as part of the department's permanent records. A report under this subsection is admissible in evidence before the division of workers' compensation and in an appeal from a final award or ruling of the commissioner of workers' compensation in which the individual named in the examination is a claimant for compensation under this chapter. A report under this subsection that is admitted is prima facie evidence of the facts stated in the report. Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.326, eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 395 (S.B. 1323), Sec. 1, eff. June 7, 2021.

Acts 2021, 87th Leg., R.S., Ch. 395 (S.B. 1323), Sec. 2, eff. June 7, 2021.

Acts 2021, 87th Leg., R.S., Ch. 395 (S.B. 1323), Sec. 3, eff. June 7, 2021.

Sec. 505.055. REPORTS OF INJURIES. (a) A report of an injury filed with the division of workers' compensation under Section 409.005, in addition to the information required by commissioner of workers' compensation rules, must contain:

(1) the name, age, sex, and occupation of the injured employee;

(2) the character of work in which the employee was engaged at the time of the injury;

(3) the place, date, and hour of the injury; and

(4) the nature and cause of the injury.

(b) In addition to subsequent reports of an injury filed with the division of workers' compensation under Section 409.005(e), the department shall file a subsequent report on a form obtained for that purpose:

(1) on the termination of incapacity of the injured employee; or

(2) if the incapacity extends beyond 60 days.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.327, eff. September 1, 2005.

Sec. 505.056. REQUIRED EXAMINATION OF INJURED EMPLOYEE; REFUSAL TO SUBMIT TO EXAMINATION. (a) The division of workers' compensation may require an employee who claims to have been injured to submit to an examination by the division or a person acting under the division's authority at a reasonable time and place in this state.

(b) An employee is not entitled to compensation during or for a period in which the employee refuses to submit to an examination under Subsection (a) or Section 408.004.

(c) The department may have an injured employee examined at a reasonable time and at a place suitable to the employee's condition and convenient and accessible to the employee by a physician selected by the department. The department shall pay for an examination under this subsection and for the employee's reasonable expenses incident to the examination.

(d) On the request of an employee or the department, the employee or the department is entitled to have a physician selected by the employee or the department present to participate in an examination under Subsection (a) or Section 408.004. The employee is entitled to have a physician selected by the employee present to participate in an examination under Subsection (c). The

department shall pay the fee set by the commissioner of workers' compensation of a physician selected by the employee under this subsection.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.328, eff. September 1, 2005.

Sec. 505.057. REFUSAL TO SUBMIT TO MEDICAL TREATMENT. (a) The commissioner of workers' compensation may order or direct the department to reduce or suspend the compensation of an injured employee if the employee:

(1) persists in insanitary or injurious practices that tend to imperil or retard the employee's recovery; or

(2) refuses to submit to medical, surgical, or other remedial treatment recognized by the state that is reasonably essential to promote the employee's recovery.

(b) Compensation may not be reduced or suspended under this section without reasonable notice to the employee and an opportunity to be heard.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.329, eff. September 1, 2005.

Sec. 505.058. POSTPONEMENT OF HEARING. If an injured employee is receiving benefits under this chapter and the department is providing hospitalization or medical treatment to the employee, the division of workers' compensation may postpone the hearing of the employee's claim. An appeal may not be taken from an order of the commissioner of workers' compensation under this section.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.330, eff. September 1, 2005.

Sec. 505.059. NOTICE OF APPEAL; NOTICE OF TRIAL COURT JUDGMENT; OFFENSE. (a) In each case appealed from the division of workers' compensation to a county or district court:

(1) the clerk of the court shall mail to the division:

(A) not later than the 20th day after the date the case is filed, a notice containing the style, number, and date of filing of the case; and

(B) not later than the 20th day after the date the judgment is rendered, a certified copy of the judgment; and

(2) the attorney preparing the judgment shall file the original and a copy of the judgment with the clerk.

(b) An attorney's failure to comply with Subsection (a)(2) does not excuse the failure of a county or district clerk to comply with Subsection (a)(1)(B).

(c) The duties of a county or district clerk under Subsection (a)(1) are part of the clerk's ex officio duties, and the clerk is not entitled to a fee for the services.

(d) A county or district clerk who violates this section commits an offense. An offense under this section is a misdemeanor punishable by a fine not to exceed \$250.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.331, eff. September 1, 2005.

Sec. 505.060. EFFECT OF SICK LEAVE; ANNUAL LEAVE. (a) An employee may elect to use accrued sick leave before receiving income benefits. If an employee elects to use sick leave, the employee is not entitled to income benefits under this chapter until the employee has exhausted the employee's accrued sick leave.

(b) An employee may elect to use all or any number of weeks of accrued annual leave after the employee's accrued sick leave is exhausted. If an employee elects to use annual leave, the employee is not entitled to income benefits under this chapter until the elected number of weeks of leave have been exhausted.

Added by Acts 2001, 77th Leg., ch. 706, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1017, Sec. 2.01, eff. Sept. 1, 2002; Acts

2001, 77th Leg., ch. 1456, Sec. 14.03, eff. June 17, 2001.