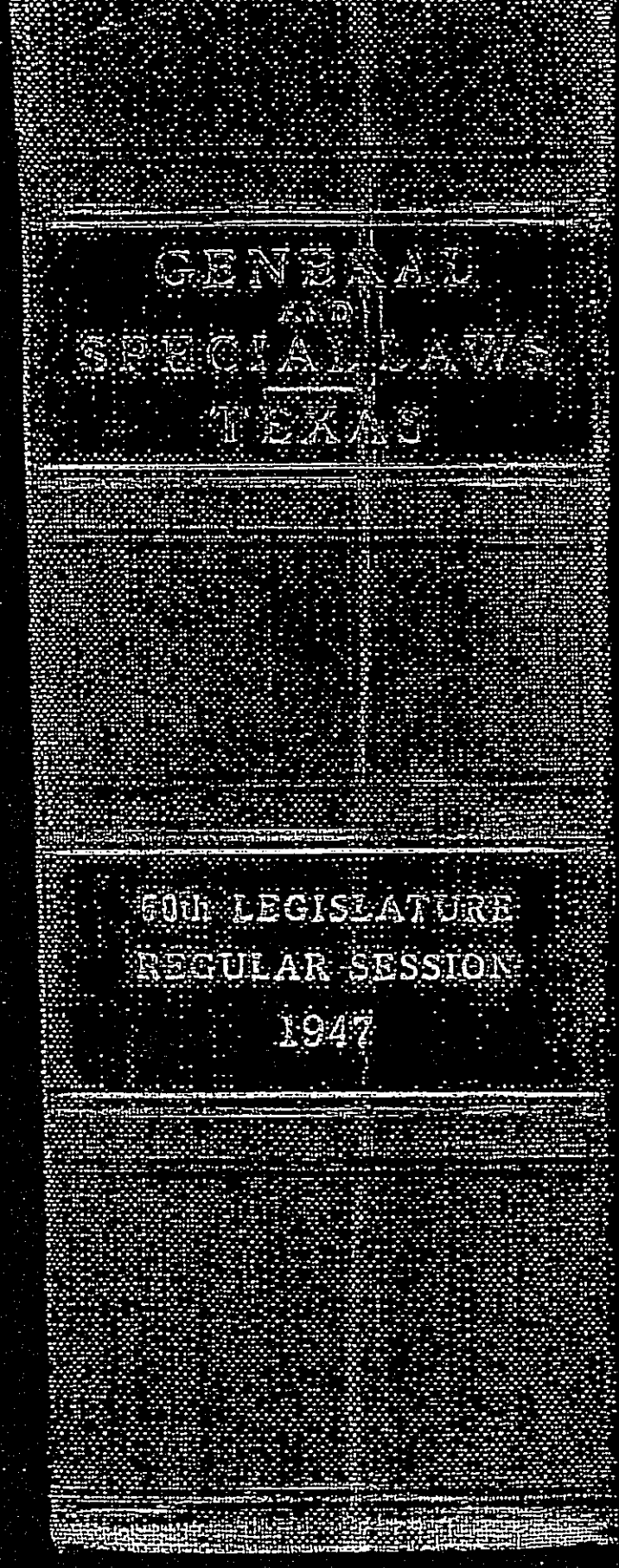


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GENERAL AND SPECIAL LAWS

OF

THE STATE OF TEXAS

Passed By The

REGULAR SESSION

of the

FIFTIETH LEGISLATURE

Convened at the

City of Austin, January 14, 1947

and

Adjourned June 6, 1947

Published under the Authority of The State of Texas

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Austin, Texas

Paul H. Brown .....Secretary of State

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PREFACE

THIS volume prepared and distributed under the direction and supervision of the Secretary of State contains all the general and special laws of Texas enacted at the Regular Session of the 50th Legislature, 1947, including the appropriation acts and all joint and concurrent resolutions.

Each law has been assigned a separate chapter number. For convenience of reference the laws are arranged chronologically by their approval or filing dates and in numerical order by chapter number. The joint and concurrent resolutions appear immediately following the text of the laws.

The Tables show the prior Acts and the Articles of the Revised Civil Statutes, the Penal Code and the Code of Criminal Procedure amended or repealed by the Laws of 1947, together with Tables showing where all the bills and resolutions may be found in the volume.

The text of all laws has been authenticated by the Secretary of State.

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and may continue in session six weeks, and on the seventeenth Monday after the second Monday in August of each year and may continue in session until the second Monday in January of the following year.

"Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein."

Sec. 2. The Judge of said Court in his discretion, may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

Sec. 4. It is further provided that if any Court in any county of said district shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws; but thereafter all Courts in said district shall conform to the requirements of this Act.

Sec. 5. The fact that the dockets in the above-named counties are crowded, and the further fact that no relief can be had for this condition until continuous terms of Court are authorized, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the House, March 19, 1947: Yeas 113, Nays 0; passed the Senate, April 9, 1947: Yeas 27, Nays 0.

Approved April 21, 1947.

Effective April 21, 1947.

WORKMEN'S COMPENSATION—OCCUPATIONAL DISEASES

CHAPTER 113

S. B. No. 40

An Act providing for Workmen's Compensation for employees who incur occupational diseases; repealing a part of a paragraph of Section 1 of Article 8309, Revised Civil Statutes of Texas, 1925, as amended, as quoted in the body of the bill; and amending present sections and adding new Sections 20, 21, 22, 23, 24, 25, 26, and 27 to Article 8306, Revised Civil Statutes of Texas, 1925, as amended; and amending Section 4a, Section 5 and Section 7 of Article 8307, Revised Civil Statutes of Texas, 1925, as amended; and adding new Sections 13 and 14 to Article 8307, Revised Civil Statutes of Texas of 1925, as amended; providing a saving clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the hereinbelow quoted paragraph of Section 1 of Article 8309, Revised Civil Statutes of Texas, 1925, as amended, be and the same is hereby repealed,[83] to-wit:

"The terms 'injury' or 'personal injury', shall be construed to mean damage or harm to the physical structure of the body and such diseases or infection as naturally result therefrom."

Sec. 2. That Article 8306, Revised Civil Statutes, 1925, as amended, be amended[84] by adding a new section, to be known as Section 20, which shall read as follows:

[83] Vernon's Ann.Civ.St., art. 8309.
[84] Vernon's Ann.Civ.St., art. 8306, § 20.

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"Section 20. Wherever the terms 'injury' or 'personal injury', are used in the Workmen's Compensation Law of this state, such terms shall be construed to mean damage or harm to the physical structure of the body and such diseases or infection as naturally result therefrom. Unless from the context the meaning is clearly to the contrary, such terms shall also be construed to mean and include occupational diseases, as hereinafter defined. The following diseases only shall be deemed to be occupational diseases:

"(a) Poisoning by: (1) Aluminum Trioxide; (2) Arsenic; (3) Benzol or its homologues and derivatives; (4) Beryllium; (5) Cadmium; (6) Carbon Bisulphide; (7) Carbon Dioxide; (8) Carbon Monoxide; (9) Chlorine; (10) Cyanide; (11) Formaldehyde; (12) Halogenated Hydrocarbons; (13) Hydrochloric Acid; (14) Hydrofluoric Acid; (15) Hydrogen Sulphide; (16) Lead; (17) Manganese; (18) Mercury; (19) Methanol (Wood Alcohol); (20) Methanol Chloride; (21) Nitrous Fumes; (22) Nitric Acid; (23) Petroleum or Petroleum Products; (24) Phosphorus; (25) Selenium; (26) Sulphuric Acid; (27) Sulphur Dioxide; (28) Sulphur Trioxide; (29) Tellurium; (30) Thallium; (31) Zinc;

"(b) Anthrax caused by handling of wool, hair, bristles, hides and skins;

"(c) Blisters caused by prolonged or repeated use of tools or mechanical appliances;

"(d) Synovitis, Tenosynovitis, or Bursitis due to an occupation involving continual or repeated pressure on the parts affected;

"(e) Chrome ulceration;

"(f) Compressed air illness;

"(g) Dermatitis, that is, inflammation of the skin due to oil, cutting compounds or lubricants, dust, liquids, fumes, gases or vapors;

"(h) Diseased condition caused by exposure to x-rays or radio-active substances;

"(i) Diseased condition of the eyes due to electric arc and welding, and cataract in glass workers;

"(j) (Epitheliomatous cancer) or ulceration of the skin or the corneal surface of the eye caused by tar, pitch, bitumen, mineral oil or paraffin or any compound, product or residue of any of these substances;

"(k) Glanders and other diseased conditions caused by handling any equine animal or the carcass of any such animal;

"(l) Infectious or contagious disease contracted in the course of employment in or in immediate connection with a hospital or sanatorium in which persons or animals suffering from such disease are cared for or treated;

"(m) Nystagmus incurred in underground work;

"(n) Asbestosis;

"(o) Silicosis."

Sec. 3. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [85] a new section, to be known as Section 21, which shall read as follows:

"Section 21. If the employee, at the time of his employment, wilfully and falsely represents in writing that he has not previously been afflicted with the occupational disease which is the cause of incapacity or death, no compensation shall be payable."

Sec. 4. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [86] a new section, to be known as Section 22, which shall read as follows:

[85] Vernon's Ann.Civ.St., art. 8306, § 21.
[86] Vernon's Ann.Civ.St., art. 8306, § 22.

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"Section 22. Where an occupational disease is aggravated by any other non-compensable disease or infirmity, or where incapacity or death from any other non-compensable cause, is aggravated, prolonged, accelerated or in anywise contributed to by an occupational disease, the number of weeks of compensation payable by the Association shall be reduced and limited to such proportion only of the total number of weeks of compensation that would be payable if the occupational disease were the sole cause of the incapacity or death, as such occupational disease, as a causative factor, bears to all the causes of such incapacity or death, such reduction in compensation to be effected by reducing the number of weekly payments of compensation for which the Association is liable."

Sec. 5. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [87] a new section, to be known as Section 23, which shall read as follows:

"Section 23. The provisions of this Act do not apply to cases of incapacity or death resulting from a disease in which the last injurious exposure to the hazards of such disease occurred before the date on which this Act takes effect."

Sec. 6. That Article 8306, Revised Civil Statutes, 1925, be amended by adding [88] a new section, to be known as Section 24, which shall read as follows:

"Section 24. Where compensation is payable for an occupational disease, the employer in whose employ the employee was last injuriously exposed to the hazards of such disease shall be deemed the employer within the meaning of the Act."

Sec. 7. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [89] a new section, to be known as Section 25, which shall read as follows:

"Section 25. The Association shall not be liable for any compensation for an occupational disease unless such disease shall be due to the nature of an employment in which the hazards of such disease actually exist, and are characteristic thereof and peculiar to the trade, occupation, process, or employment, and is actually incurred in such employment, and unless incapacity or death results within three (3) years in the case of silicosis or asbestosis, or one (1) year in case of any other occupational disease, after the last injurious exposure to such disease in such employment; or, in case of death, unless death follows continuous incapacity from such disease commencing within the period above limited, for which compensation has been paid or awarded or timely claim made as provided in this Act, and occurs within three hundred sixty (360) weeks after such last exposure."

Sec. 8. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [90] a new section, to be known as Section 26, which shall read as follows:

"Section 26. (a) Wherever used in this section 'silicosis' shall mean the characteristic fibrotic condition of the lungs caused by inhalation of silica dust. 'Asbestosis' shall mean the characteristic fibrotic condition of the lungs caused by the inhalation of asbestos dust.

"(b) In the absence of conclusive evidence in favor of the claimant, disability or death from silicosis or asbestosis shall be presumed not to be due to the nature of any employment within the provision of this section, unless during the ten (10) years immediately preceding the date of incapacity the employee has been exposed to the inhalation of silica dust or

[87] Vernon's Ann.Civ.St., art. 8306, § 23.
[88] Vernon's Ann.Civ.St., art. 8306, § 24.
[89] Vernon's Ann.Civ.St., art. 8306, § 25.
[90] Vernon's Ann.Civ.St., art. 8306, § 26.

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asbestos dust over a period of not less than five (5) years, two (2) years of which shall have been in this state, under a contract of employment existing in this state; provided, however, that if the employee shall have been employed by the same employer during the whole of such five (5) years period, his right to compensation against the association shall not be affected by the fact that he has been employed during any part of said period outside this state; provided further, that the employee has not been working outside of the state for more than one (1) year prior to the commencement of incapacity.

"(c) In the event of incapacity or death from silicosis or asbestosis, compensation shall be payable to employees or their beneficiaries as follows: If incapacity occurs, or, in the case of no claim for prior incapacity, if death occurs in the first twelve (12) months period after this section becomes effective, the total compensation or death benefits payable shall be twenty per cent of the number of weeks of compensation otherwise payable for such incapacity or death. If incapacity occurs, or, in the case of no claim for prior incapacity, if death occurs during the next twelve (12) months period, the total compensation or death benefits payable shall be forty per cent of the number of weeks of compensation otherwise payable for such incapacity or death. Thereafter, the total number of weeks of compensation payable for incapacity or death shall increase at the rate of twenty per cent for each succeeding twelve (12) months period; the aggregate number of weeks of compensation payable in each case to be limited according to the foregoing formula for the year in which incapacity occurs, or, in case of no claim for prior incapacity, in which death occurs. Such progressive increase in the limitation of the total number of weeks of compensation in any event payable for incapacity or death due to silicosis or asbestosis shall continue only until such total number of weeks equals but does not exceed the number which would be payable to the particular employee or his beneficiaries had such incapacity or death been due to an injury other than an occupational disease.

"(d) In the event of incapacity from silicosis or asbestosis, the Association shall provide reasonable medical treatment; but liability for such treatment shall not extend beyond ninety-one (91) days as provided in Section 7 of Article 8306.

"(e) Where an employee, though not actually incapacitated, is found to be affected by silicosis or asbestosis, he may, subject to the approval of the Board, be permitted to waive in writing full compensation for any aggravation of his condition that may result from his continuing in the hazardous occupation. In the event of total incapacity or death as a result of the disease with which the employee was so affected, after such a waiver, compensation shall nevertheless be payable as herein elsewhere provided; but in no case, whether for incapacity or death or both, for longer than one hundred (100) weeks. A waiver so permitted shall remain effective, for the trade, occupation, process, or employment for which executed, notwithstanding a change or changes of employer. The Board shall make reasonable rules and regulations relative to the form, execution, filing or registration and public inspection of waivers or records thereof."

Sec. 9. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [91] a new section, to be known as Section 27, which shall read as follows:

"Section 27. In any case wherein the employment causes an acute disease, condition or allergy which can be arrested by a change of employment or by medical treatment under which the employee will suffer no

[91] Vernon's Ann.Civ.St., art. 8306, § 27.

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objective symptoms of such disease, condition or allergy, the employee shall be entitled to compensation only for the period during which said disease, condition or allergy persists in an acute state."

Sec. 10. That Section 4a of Article 8307, Revised Civil Statutes, 1925, be amended [92] so as hereafter to read as follows:

"Section 4a. Unless the Association or subscriber have notice of the injury, no proceeding for compensation for injury under this law shall be maintained unless a notice of the injury shall have been given to the Association or subscriber within thirty (30) days after the happening of an injury or the first distinct manifestation of an occupational disease, and unless a claim for compensation with respect to such injury shall have been made within six (6) months after the occurrence of the injury or of the first distinct manifestation of an occupational disease; or, in case of death of the employee or in the event of his physical or mental incapacity, within six (6) months after death or the removal of such physical or mental incapacity. For good cause the Board may, in meritorious cases, waive the strict compliance with the foregoing limitations as to notice, and the filing of the claim before the Board."

Sec. 11. That Section 5 of Article 8307, Revised Civil Statutes, 1925, be amended [93] so as hereafter to read as follows:

"Section 5. All questions arising under this law, if not settled by agreement of the parties interested therein and within the provisions of this law, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall, within twenty (20) days after the rendition of said final ruling and decision by said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision, and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. In all cases of occupational diseases, for the purpose of determining venue when an appeal is effected to set aside the final ruling and decision of the Board, suit shall be brought in a court of competent jurisdiction in the said county in which the employee was last exposed to the disease alleged, prior to the manifestation of the disease, or death therefrom, or in the county in which the adverse party resides, or has a permanent place or business, or by agreement of the parties in a court of competent jurisdiction in any county in this state. Whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this law, and the suit of the injured employee or person suing on account of the death of such employee shall be against the Association, if the employer of such injured or deceased employee at the time of such injury or death was a subscriber as defined in this law. If the final order of the Board is against the Association, then the Association and not the employer shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the court shall in either event determine the issues in such cause, instead of the Board, upon trial de novo, and the burden or proof shall be upon the party claiming compensation. The Industrial Accident Board shall furnish any interested party in said claim pending in court, upon request, free of charge, with a certified copy of the notice of the employer becoming a subscriber, filed with the Board, and the same when properly certified to shall be admissible in evidence in any court in this state upon trial of such claim therein pending, and shall be prima facie proof of all facts stated in such notice in the trial of said

[92] Vernon's Ann.Civ.St., art. 8307, § 4a.
[93] Vernon's Ann.Civ.St., art. 8307, § 5.

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cause unless same is denied under oath by the opposing party therein. In case of recovery, the same shall not exceed the maximum compensation allowed under the provisions of this law. If any party to such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto; and, if the same is against the Association, it shall at once comply with such final ruling and decision; and failing to do so, the Board shall certify the fact to the Commissioner of Insurance, and such certificate shall be sufficient cause to justify said Commissioner to revoke or forfeit the license or permit of such Association to do business in Texas."

Sec. 12. That Section 7 of Article 8307, Revised Civil Statutes, 1925, be amended [94] so as hereafter to read as follows:

"Section 7. Every subscriber shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employees in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one (1) day, or within eight (8) days after the employee notifies the employer of a definite manifestation of an occupational disease, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured employee, or if such incapacity extends beyond a period of sixty (60) days, the subscriber shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employee, and the character of work in which he was engaged at the time of the injury, and shall state the date and hour of receiving such injury or of the definite manifestation of the occupational disease, and the nature and cause of the injury, and such other information as the Board may require. Any employer wilfully failing or refusing to make any such report within the time herein provided, or wilfully failing or refusing to give said Board any information demanded by said Board relating to any injury to any employee, which information is in the possession of or can be ascertained by the employer by the use of reasonable diligence, shall be liable for and shall pay to the State of Texas a penalty of not more than One Thousand ($1,000.00) Dollars for each and every offense, the same to be recovered in a suit to be instituted and prosecuted in Travis County by the Attorney General or by the district or county attorney, under his direction, in a District Court thereof."

Sec. 13. That Article 8307, Revised Civil Statutes, 1925, be amended by adding [95] a new section, to be known as Section 13, which shall read as follows:

"Section 13. (a) If, on the hearing of a claim for compensation for occupational disease, any controverted medical question or questions shall arise, upon the request of either party, or its own motion, the Board shall appoint a Medical Committee consisting of three (3) doctors, duly qualified in the diagnosis and treatment of occupational diseases, and licensed to practice in the state, and the Board shall reserve its decision and award until it shall have received a report from such Medical Committee. The date of incapacity, if in dispute, shall be deemed to be a medical question.

"(b) The Medical Committee, upon reference to it of a case of occupational disease, shall notify the employee, or, in case he be dead, his beneficiary or beneficiaries, and the Association to appear before the Medical

[94] Vernon's Ann.Civ.St., art. 8307, § 7.
[95] Vernon's Ann.Civ.St., art. 8307, § 13.

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Committee at a time and place stated in the notice. If the employee be living he shall appear before the Medical Committee at the time and place specified, and he shall submit to such examinations including clinical and x-ray examinations as the Medical Committee may require. The employee, or, if he be dead, his beneficiary or beneficiaries, and the Association shall be entitled to have present at all such examinations a physician of his or its own selection, who shall be given an opportunity to witness the same, and whose services shall be paid for by the person who engaged his services. The claimant and the Association shall produce to the Medical Committee all reports, medical and x-ray examinations which may be in their respective possession or control showing the past or present condition of the employee, to assist the Medical Committee in reaching its conclusion.

"(c) The Medical Committee shall, if it deems advisable, inspect or cause to be inspected, the plant or industrial operation or process, where the exposure to the occupational disease is alleged to have occurred, to determine whether such conditions exist in such plant, industrial operation or process as to produce the occupational disease complained of.

"(d) The Medical Committee shall, as soon as practicable after it has completed its consideration of a case, report to the Board its opinion regarding all medical questions involved in the case. The Medical Committee shall include in its report a statement of what, if any, physician or physicians were present at the examination on behalf of the claimant or Association and what, if any, medical reports and x-rays were produced by or on behalf of the claimant or Association.

"(e) The Medical Committee shall file its report in triplicate with the Board, which shall send one copy thereof to the claimant and one copy to the Association. All fees, costs, and expenses incident to the functioning of said Medical Committee shall be paid by the party requesting same; the Board shall determine the reasonableness of said fees, costs and expenditures.

"(f) If the employee refuses to submit to such examination, all action on his claim for compensation shall be suspended during such period as he persists in such refusal.

"(g) Where a case of occupational disease is pending in any court of this state, upon the motion of either party, or upon its own motion, the court shall appoint a Medical Committee consisting of three (3) doctors duly qualified in the diagnosis and treatment of occupational diseases and licensed to practice in the state, and shall direct the employee to submit to examination, including clinical and x-ray examination, as the Medical Committee may require or deem advisable. The Medical Committee shall report its findings and conclusions in open court, and such may be rebuttable. The court shall pass on the reasonableness of the fees, costs and other expenditures of the Medical Committee, which fees shall be taxed as costs."

Sec. 14. That Article 8307, Revised Civil Statutes, 1925, be amended by adding [96] a new section, to be known as Section 14, which shall read as follows:

"Section 14. Upon the filing of a claim for compensation for death by reason of an occupational disease where an autopsy is necessary to accurately and scientifically determine the cause of death, upon the request of either party, or on its own motion, such autopsy shall be ordered by the Board. The Board shall designate a duly licensed physician, who is a specialist in such examinations, to perform or attend such autopsy, and to certify his findings thereon. Such findings are to be filed with the Board and shall be a public record. All proceedings for compensation

[96] Vernon's Ann.Civ.St., art. 8307, § 14.

shall be suspended upon refusal of the beneficiaries of the deceased employee to permit such autopsy when ordered, and no compensation shall be payable for any period during which such autopsy is refused. No autopsy shall be held in any case, by any person, without notice first being given to the parties in interest, (if they reside in this state or their whereabouts can be reasonably ascertained,) of the time and place thereof, and reasonable time and opportunity given such parties in interest to have a representative or representatives present to witness the same. If such notice is not given, all evidence obtained by such autopsy shall be suppressed on motion duly made to the Board."

Sec. 15. If any section, sentence, clause, or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each sentence, clause, and part thereof despite the fact that one or more sections, sentences, clauses, or parts thereof be declared unconstitutional.

Sec. 16. The fact that workmen throughout Texas are sustaining disability by reason of the nature of their employment through occupational diseases that arise and grow out of their employment for which no compensation is provided, creates an emergency and an imperative public necessity that the Constitutional Rule that all bills be read on three several days in each House be and the same is hereby suspended, and that this Act shall be in effect immediately from and after its passage, and it is so enacted.

Passed the Senate, February 27, 1947, by a viva voce vote; April 14, 1947, Senate concurred in House amendments by a viva voce vote; passed the House, April 10, 1947, with amendments: Yeas 110, Nays 13.

Approved April 19, 1947.

Effective 90 days after June 6, 1947, date of adjournment.

MUNICIPAL AIRPORTS ACT

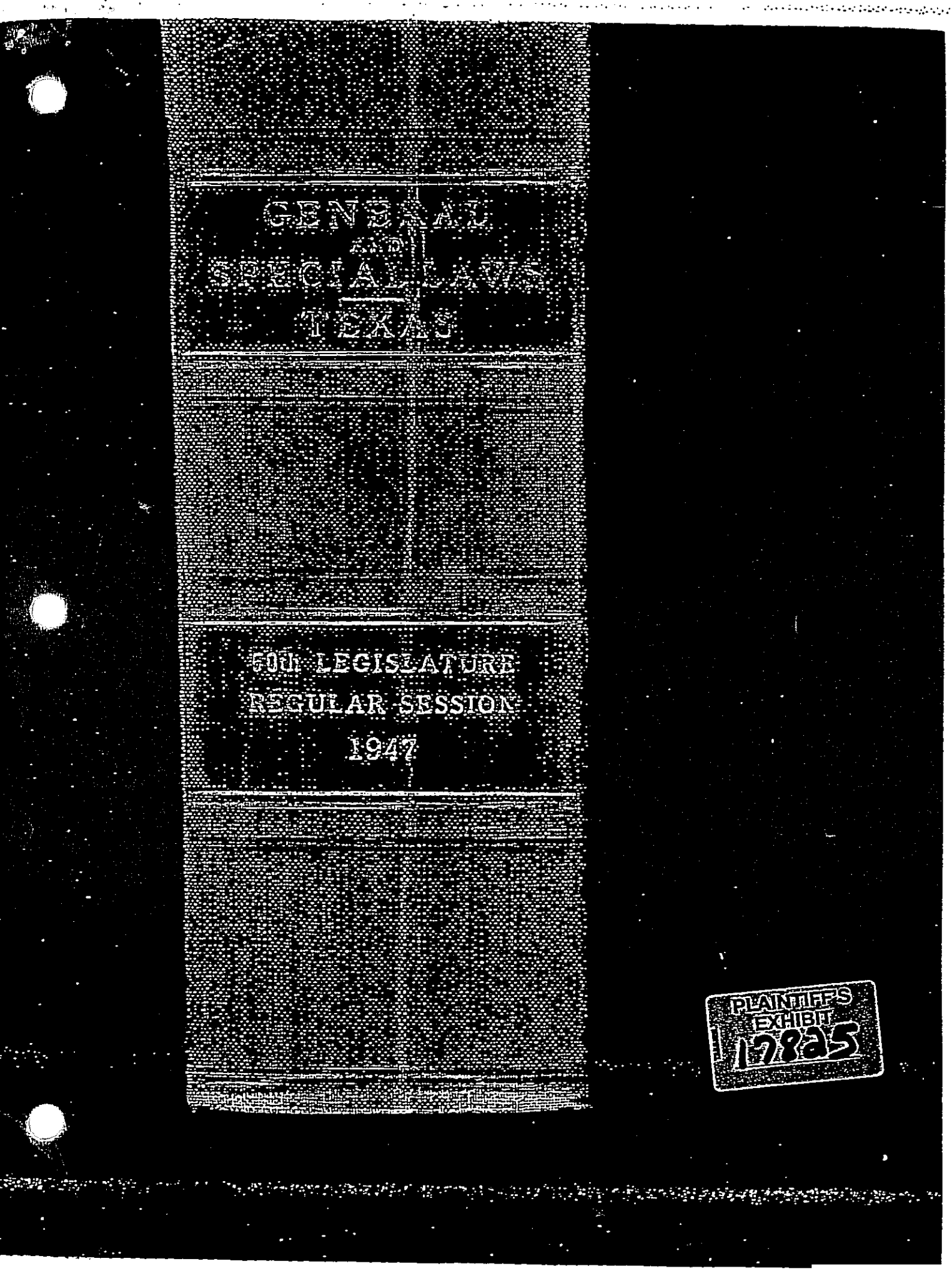
CHAPTER 114 [97]

H. B. No. 334

An Act relating to aeronautics; defining certain terms and provisions; providing for acquisition, construction, maintenance, operation and regulation by municipalities and counties of airports and air navigation facilities; authorizing eminent domain proceedings; providing for the sale, lease, and other disposal by counties and municipalities of airports and air navigation facilities; providing for the making of contracts, leases and other agreements by counties and municipalities for operation and use privileges of airports and air navigation facilities; providing for liens in favor of counties and municipalities; providing for the creation by counties and municipalities of airport officers, boards or agencies to administer certain powers over airports and air navigation facilities; authorizing penalties for violations of municipal ordinances and regulations; providing for the levying of taxes and issuance of bonds; validating prior acquisitions, actions and bond issues; providing a special fund; providing for the acceptance and use by municipalities of Federal and State aid; authorizing joint action by municipalities and other public agencies; declaring the afore-mentioned matters and powers, public and governmental functions; providing tax exemptions for municipal airports and income thereof; providing a saving clause; making this Act cumulative of and in addition to all laws of the State of Texas on this subject; and declaring an emergency.

[97] Vernon's Ann.Civ.St., arts. 46d—1 to 46d—22.

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GENERAL AND SPECIAL LAWS

OF

THE STATE OF TEXAS

Passed By The

REGULAR SESSION

of the

FIFTIETH LEGISLATURE

Convened at the

City of Austin, January 14, 1947

and

Adjourned June 6, 1947

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Austin, Texas

Paul H. Brown .....Secretary of State

PREFACE

THIS volume prepared and distributed under the direction and supervision of the Secretary of State contains all the general and special laws of Texas enacted at the Regular Session of the 50th Legislature, 1947, including the appropriation acts and all joint and concurrent resolutions.

Each law has been assigned a separate chapter number. For convenience of reference the laws are arranged chronologically by their approval or filing dates and in numerical order by chapter number. The joint and concurrent resolutions appear immediately following the text of the laws.

The Tables show the prior Acts and the Articles of the Revised Civil Statutes, the Penal Code and the Code of Criminal Procedure amended or repealed by the Laws of 1947, together with Tables showing where all the bills and resolutions may be found in the volume.

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and may continue in session six weeks, and on the seventeenth Monday after the second Monday in August of each year and may continue in session until the second Monday in January of the following year.

"Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein."

Sec. 2. The Judge of said Court in his discretion, may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

Sec. 4. It is further provided that if any Court in any county of said district shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws; but thereafter all Courts in said district shall conform to the requirements of this Act.

Sec. 5. The fact that the dockets in the above-named counties are crowded, and the further fact that no relief can be had for this condition until continuous terms of Court are authorized, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the House, March 19, 1947: Yeas 113, Nays 0; passed the Senate, April 9, 1947: Yeas 27, Nays 0.

Approved April 21, 1947.

Effective April 21, 1947.

WORKMEN'S COMPENSATION—OCCUPATIONAL DISEASES

CHAPTER 113

S. B. No. 40

An Act providing for Workmen's Compensation for employees who incur occupational diseases; repealing a part of a paragraph of Section 1 of Article 8309, Revised Civil Statutes of Texas, 1925, as amended, as quoted in the body of the bill; and amending present sections and adding new Sections 20, 21, 22, 23, 24, 25, 26, and 27 to Article 8306, Revised Civil Statutes of Texas, 1925, as amended; and amending Section 4a, Section 5 and Section 7 of Article 8307, Revised Civil Statutes of Texas, 1925, as amended; and adding new Sections 13 and 14 to Article 8307, Revised Civil Statutes of Texas of 1925, as amended; providing a saving clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the hereinbelow quoted paragraph of Section 1 of Article 8309, Revised Civil Statutes of Texas, 1925, as amended, be and the same is hereby repealed,[83] to-wit:

"The terms 'injury' or 'personal injury', shall be construed to mean damage or harm to the physical structure of the body and such diseases or infection as naturally result therefrom."

Sec. 2. That Article 8306, Revised Civil Statutes, 1925, as amended, be amended[84] by adding a new section, to be known as Section 20, which shall read as follows:

[83] Vernon's Ann.Civ.St., art. 8309.
[84] Vernon's Ann.Civ.St., art. 8306, § 20.

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"Section 20. Wherever the terms 'injury' or 'personal injury', are used in the Workmen's Compensation Law of this state, such terms shall be construed to mean damage or harm to the physical structure of the body and such diseases or infection as naturally result therefrom. Unless from the context the meaning is clearly to the contrary, such terms shall also be construed to mean and include occupational diseases, as hereinafter defined. The following diseases only shall be deemed to be occupational diseases:

"(a) Poisoning by: (1) Aluminum Trioxide; (2) Arsenic; (3) Benzol or its homologues and derivatives; (4) Beryllium; (5) Cadmium; (6) Carbon Bisulphide; (7) Carbon Dioxide; (8) Carbon Monoxide; (9) Chlorine; (10) Cyanide; (11) Formaldehyde; (12) Halogenated Hydrocarbons; (13) Hydrochloric Acid; (14) Hydrofluoric Acid; (15) Hydrogen Sulphide; (16) Lead; (17) Manganese; (18) Mercury; (19) Methanol (Wood Alcohol); (20) Methanol Chloride; (21) Nitrous Fumes; (22) Nitric Acid; (23) Petroleum or Petroleum Products; (24) Phosphorus; (25) Selenium; (26) Sulphuric Acid; (27) Sulphur Dioxide; (28) Sulphur Trioxide; (29) Tellurium; (30) Thallium; (31) Zinc;

"(b) Anthrax caused by handling of wool, hair, bristles, hides and skins;

"(c) Blisters caused by prolonged or repeated use of tools or mechanical appliances;

"(d) Synovitis, Tenosynovitis, or Bursitis due to an occupation involving continual or repeated pressure on the parts affected;

"(e) Chrome ulceration;

"(f) Compressed air illness;

"(g) Dermatitis, that is, inflammation of the skin due to oil, cutting compounds or lubricants, dust, liquids, fumes, gases or vapors;

"(h) Diseased condition caused by exposure to x-rays or radio-active substances;

"(i) Diseased condition of the eyes due to electric arc and welding, and cataract in glass workers;

"(j) (Epitheliomatous cancer) or ulceration of the skin or the corneal surface of the eye caused by tar, pitch, bitumen, mineral oil or paraffin or any compound, product or residue of any of these substances;

"(k) Glanders and other diseased conditions caused by handling any equine animal or the carcass of any such animal;

"(l) Infectious or contagious disease contracted in the course of employment in or in immediate connection with a hospital or sanatorium in which persons or animals suffering from such disease are cared for or treated;

"(m) Nystagmus incurred in underground work;

"(n) Asbestosis;

"(o) Silicosis."

Sec. 3. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [85] a new section, to be known as Section 21, which shall read as follows:

"Section 21. If the employee, at the time of his employment, wilfully and falsely represents in writing that he has not previously been afflicted with the occupational disease which is the cause of incapacity or death, no compensation shall be payable."

Sec. 4. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [86] a new section, to be known as Section 22, which shall read as follows:

[85] Vernon's Ann.Civ.St., art. 8306, § 21.
[86] Vernon's Ann.Civ.St., art. 8306, § 22.

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"Section 22. Where an occupational disease is aggravated by any other non-compensable disease or infirmity, or where incapacity or death from any other non-compensable cause, is aggravated, prolonged, accelerated or in anywise contributed to by an occupational disease, the number of weeks of compensation payable by the Association shall be reduced and limited to such proportion only of the total number of weeks of compensation that would be payable if the occupational disease were the sole cause of the incapacity or death, as such occupational disease, as a causative factor, bears to all the causes of such incapacity or death, such reduction in compensation to be effected by reducing the number of weekly payments of compensation for which the Association is liable."

Sec. 5. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [87] a new section, to be known as Section 23, which shall read as follows:

"Section 23. The provisions of this Act do not apply to cases of incapacity or death resulting from a disease in which the last injurious exposure to the hazards of such disease occurred before the date on which this Act takes effect."

Sec. 6. That Article 8306, Revised Civil Statutes, 1925, be amended by adding [88] a new section, to be known as Section 24, which shall read as follows:

"Section 24. Where compensation is payable for an occupational disease, the employer in whose employ the employee was last injuriously exposed to the hazards of such disease shall be deemed the employer within the meaning of the Act."

Sec. 7. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [89] a new section, to be known as Section 25, which shall read as follows:

"Section 25. The Association shall not be liable for any compensation for an occupational disease unless such disease shall be due to the nature of an employment in which the hazards of such disease actually exist, and are characteristic thereof and peculiar to the trade, occupation, process, or employment, and is actually incurred in such employment, and unless incapacity or death results within three (3) years in the case of silicosis or asbestosis, or one (1) year in case of any other occupational disease, after the last injurious exposure to such disease in such employment; or, in case of death, unless death follows continuous incapacity from such disease commencing within the period above limited, for which compensation has been paid or awarded or timely claim made as provided in this Act, and occurs within three hundred sixty (360) weeks after such last exposure."

Sec. 8. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [90] a new section, to be known as Section 26, which shall read as follows:

"Section 26. (a) Wherever used in this section 'silicosis' shall mean the characteristic fibrotic condition of the lungs caused by inhalation of silica dust. 'Asbestosis' shall mean the characteristic fibrotic condition of the lungs caused by the inhalation of asbestos dust.

"(b) In the absence of conclusive evidence in favor of the claimant, disability or death from silicosis or asbestosis shall be presumed not to be due to the nature of any employment within the provision of this section, unless during the ten (10) years immediately preceding the date of incapacity the employee has been exposed to the inhalation of silica dust or

[87] Vernon's Ann.Civ.St., art. 8306, § 23.
[88] Vernon's Ann.Civ.St., art. 8306, § 24.
[89] Vernon's Ann.Civ.St., art. 8306, § 25.
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asbestos dust over a period of not less than five (5) years, two (2) years of which shall have been in this state, under a contract of employment existing in this state; provided, however, that if the employee shall have been employed by the same employer during the whole of such five (5) years period, his right to compensation against the association shall not be affected by the fact that he has been employed during any part of said period outside this state; provided further, that the employee has not been working outside of the state for more than one (1) year prior to the commencement of incapacity.

"(c) In the event of incapacity or death from silicosis or asbestosis, compensation shall be payable to employees or their beneficiaries as follows: If incapacity occurs, or, in the case of no claim for prior incapacity, if death occurs in the first twelve (12) months period after this section becomes effective, the total compensation or death benefits payable shall be twenty per cent of the number of weeks of compensation otherwise payable for such incapacity or death. If incapacity occurs, or, in the case of no claim for prior incapacity, if death occurs during the next twelve (12) months period, the total compensation or death benefits payable shall be forty per cent of the number of weeks of compensation otherwise payable for such incapacity or death. Thereafter, the total number of weeks of compensation payable for incapacity or death shall increase at the rate of twenty per cent for each succeeding twelve (12) months period; the aggregate number of weeks of compensation payable in each case to be limited according to the foregoing formula for the year in which incapacity occurs, or, in case of no claim for prior incapacity, in which death occurs. Such progressive increase in the limitation of the total number of weeks of compensation in any event payable for incapacity or death due to silicosis or asbestosis shall continue only until such total number of weeks equals but does not exceed the number which would be payable to the particular employee or his beneficiaries had such incapacity or death been due to an injury other than an occupational disease.

"(d) In the event of incapacity from silicosis or asbestosis, the Association shall provide reasonable medical treatment; but liability for such treatment shall not extend beyond ninety-one (91) days as provided in Section 7 of Article 8306.

"(e) Where an employee, though not actually incapacitated, is found to be affected by silicosis or asbestosis, he may, subject to the approval of the Board, be permitted to waive in writing full compensation for any aggravation of his condition that may result from his continuing in the hazardous occupation. In the event of total incapacity or death as a result of the disease with which the employee was so affected, after such a waiver, compensation shall nevertheless be payable as herein elsewhere provided; but in no case, whether for incapacity or death or both, for longer than one hundred (100) weeks. A waiver so permitted shall remain effective, for the trade, occupation, process, or employment for which executed, notwithstanding a change or changes of employer. The Board shall make reasonable rules and regulations relative to the form, execution, filing or registration and public inspection of waivers or records thereof."

Sec. 9. That Article 8306, Revised Civil Statutes, 1925, be further amended by adding [51] a new section, to be known as Section 27, which shall read as follows:

"Section 27. In any case wherein the employment causes an acute disease, condition or allergy which can be arrested by a change of employment or by medical treatment under which the employee will suffer no

[51] Vernon's Ann.Civ.St., art. 8306, § 27.

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objective symptoms of such disease, condition or allergy, the employee shall be entitled to compensation only for the period during which said disease, condition or allergy persists in an acute state."

Sec. 10. That Section 4a of Article 8307, Revised Civil Statutes, 1925, be amended [92] so as hereafter to read as follows:

"Section 4a. Unless the Association or subscriber have notice of the injury, no proceeding for compensation for injury under this law shall be maintained unless a notice of the injury shall have been given to the Association or subscriber within thirty (30) days after the happening of an injury or the first distinct manifestation of an occupational disease, and unless a claim for compensation with respect to such injury shall have been made within six (6) months after the occurrence of the injury or of the first distinct manifestation of an occupational disease; or, in case of death of the employee or in the event of his physical or mental incapacity, within six (6) months after death or the removal of such physical or mental incapacity. For good cause the Board may, in meritorious cases, waive the strict compliance with the foregoing limitations as to notice, and the filing of the claim before the Board."

Sec. 11. That Section 5 of Article 8307, Revised Civil Statutes, 1925, be amended [93] so as hereafter to read as follows:

"Section 5. All questions arising under this law, if not settled by agreement of the parties interested therein and within the provisions of this law, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall, within twenty (20) days after the rendition of said final ruling and decision by said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision, and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. In all cases of occupational diseases, for the purpose of determining venue when an appeal is effected to set aside the final ruling and decision of the Board, suit shall be brought in a court of competent jurisdiction in the said county in which the employee was last exposed to the disease alleged, prior to the manifestation of the disease, or death therefrom, or in the county in which the adverse party resides, or has a permanent place or business, or by agreement of the parties in a court of competent jurisdiction in any county in this state. Whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this law, and the suit of the injured employee or person suing on account of the death of such employee shall be against the Association, if the employer of such injured or deceased employee at the time of such injury or death was a subscriber as defined in this law. If the final order of the Board is against the Association, then the Association and not the employer shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the court shall in either event determine the issues in such cause, instead of the Board, upon trial de novo, and the burden or proof shall be upon the party claiming compensation. The Industrial Accident Board shall furnish any interested party in said claim pending in court, upon request, free of charge, with a certified copy of the notice of the employer becoming a subscriber, filed with the Board, and the same when properly certified to shall be admissible in evidence in any court in this state upon trial of such claim therein pending, and shall be prima facie proof of all facts stated in such notice in the trial of said

[92] Vernon's Ann.Civ.St., art. 8307, § 4a.
[93] Vernon's Ann.Civ.St., art. 8307, § 5.

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cause unless same is denied under oath by the opposing party therein. In case of recovery, the same shall not exceed the maximum compensation allowed under the provisions of this law. If any party to such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto; and, if the same is against the Association, it shall at once comply with such final ruling and decision; and failing to do so, the Board shall certify the fact to the Commissioner of Insurance, and such certificate shall be sufficient cause to justify said Commissioner to revoke or forfeit the license or permit of such Association to do business in Texas."

Sec. 12. That Section 7 of Article 8307, Revised Civil Statutes, 1925, be amended [94] so as hereafter to read as follows:

"Section 7. Every subscriber shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employees in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one (1) day, or within eight (8) days after the employee notifies the employer of a definite manifestation of an occupational disease, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured employee, or if such incapacity extends beyond a period of sixty (60) days, the subscriber shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employee, and the character of work in which he was engaged at the time of the injury, and shall state the date and hour of receiving such injury or of the definite manifestation of the occupational disease, and the nature and cause of the injury, and such other information as the Board may require. Any employer wilfully failing or refusing to make any such report within the time herein provided, or wilfully failing or refusing to give said Board any information demanded by said Board relating to any injury to any employee, which information is in the possession of or can be ascertained by the employer by the use of reasonable diligence, shall be liable for and shall pay to the State of Texas a penalty of not more than One Thousand ($1,000.00) Dollars for each and every offense, the same to be recovered in a suit to be instituted and prosecuted in Travis County by the Attorney General or by the district or county attorney, under his direction, in a District Court thereof."

Sec. 13. That Article 8307, Revised Civil Statutes, 1925, be amended by adding [95] a new section, to be known as Section 13, which shall read as follows:

"Section 13. (a) If, on the hearing of a claim for compensation for occupational disease, any controverted medical question or questions shall arise, upon the request of either party, or its own motion, the Board shall appoint a Medical Committee consisting of three (3) doctors, duly qualified in the diagnosis and treatment of occupational diseases, and licensed to practice in the state, and the Board shall reserve its decision and award until it shall have received a report from such Medical Committee. The date of incapacity, if in dispute, shall be deemed to be a medical question.

"(b) The Medical Committee, upon reference to it of a case of occupational disease, shall notify the employee, or, in case he be dead, his beneficiary or beneficiaries, and the Association to appear before the Medical

[94] Vernon's Ann.Civ.St., art. 8307, § 7.
[95] Vernon's Ann.Civ.St., art. 8307, § 13.

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Committee at a time and place stated in the notice. If the employee be living he shall appear before the Medical Committee at the time and place specified, and he shall submit to such examinations including clinical and x-ray examinations as the Medical Committee may require. The employee, or, if he be dead, his beneficiary or beneficiaries, and the Association shall be entitled to have present at all such examinations a physician of his or its own selection, who shall be given an opportunity to witness the same, and whose services shall be paid for by the person who engaged his services. The claimant and the Association shall produce to the Medical Committee all reports, medical and x-ray examinations which may be in their respective possession or control showing the past or present condition of the employee, to assist the Medical Committee in reaching its conclusion.

"(c) The Medical Committee shall, if it deems advisable, inspect or cause to be inspected, the plant or industrial operation or process, where the exposure to the occupational disease is alleged to have occurred, to determine whether such conditions exist in such plant, industrial operation or process as to produce the occupational disease complained of.

"(d) The Medical Committee shall, as soon as practicable after it has completed its consideration of a case, report to the Board its opinion regarding all medical questions involved in the case. The Medical Committee shall include in its report a statement of what, if any, physician or physicians were present at the examination on behalf of the claimant or Association and what, if any, medical reports and x-rays were produced by or on behalf of the claimant or Association.

"(e) The Medical Committee shall file its report in triplicate with the Board, which shall send one copy thereof to the claimant and one copy to the Association. All fees, costs, and expenses incident to the functioning of said Medical Committee shall be paid by the party requesting same; the Board shall determine the reasonableness of said fees, costs and expenditures.

"(f) If the employee refuses to submit to such examination, all action on his claim for compensation shall be suspended during such period as he persists in such refusal.

"(g) Where a case of occupational disease is pending in any court of this state, upon the motion of either party, or upon its own motion, the court shall appoint a Medical Committee consisting of three (3) doctors duly qualified in the diagnosis and treatment of occupational diseases and licensed to practice in the state, and shall direct the employee to submit to examination, including clinical and x-ray examination, as the Medical Committee may require or deem advisable. The Medical Committee shall report its findings and conclusions in open court, and such may be rebuttable. The court shall pass on the reasonableness of the fees, costs and other expenditures of the Medical Committee, which fees shall be taxed as costs."

Sec. 14. That Article 8307, Revised Civil Statutes, 1925, be amended by adding [96] a new section, to be known as Section 14, which shall read as follows:

"Section 14. Upon the filing of a claim for compensation for death by reason of an occupational disease where an autopsy is necessary to accurately and scientifically determine the cause of death, upon the request of either party, or on its own motion, such autopsy shall be ordered by the Board. The Board shall designate a duly licensed physician, who is a specialist in such examinations, to perform or attend such autopsy, and to certify his findings thereon. Such findings are to be filed with the Board and shall be a public record. All proceedings for compensation

[96] Vernon's Ann.Civ.St., art. 8307, § 14.

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shall be suspended upon refusal of the beneficiaries of the deceased employee to permit such autopsy when ordered, and no compensation shall be payable for any period during which such autopsy is refused. No autopsy shall be held in any case, by any person, without notice first being given to the parties in interest, (if they reside in this state or their whereabouts can be reasonably ascertained,) of the time and place thereof, and reasonable time and opportunity given such parties in interest to have a representative or representatives present to witness the same. If such notice is not given, all evidence obtained by such autopsy shall be suppressed on motion duly made to the Board."

Sec. 15. If any section, sentence, clause, or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each sentence, clause, and part thereof despite the fact that one or more sections, sentences, clauses, or parts thereof be declared unconstitutional.

Sec. 16. The fact that workmen throughout Texas are sustaining disability by reason of the nature of their employment through occupational diseases that arise and grow out of their employment for which no compensation is provided, creates an emergency and an imperative public necessity that the Constitutional Rule that all bills be read on three several days in each House be and the same is hereby suspended, and that this Act shall be in effect immediately from and after its passage, and it is so enacted.

Passed the Senate, February 27, 1947, by a viva voce vote; April 14, 1947, Senate concurred in House amendments by a viva voce vote; passed the House, April 10, 1947, with amendments: Yeas 110, Nays 13.

Approved April 19, 1947.

Effective 90 days after June 6, 1947, date of adjournment.

MUNICIPAL AIRPORTS ACT

CHAPTER 114 [97]

H. B. No. 334

An Act relating to aeronautics; defining certain terms and provisions; providing for acquisition, construction, maintenance, operation and regulation by municipalities and counties of airports and air navigation facilities; authorizing eminent domain proceedings; providing for the sale, lease, and other disposal by counties and municipalities of airports and air navigation facilities; providing for the making of contracts, leases and other agreements by counties and municipalities for operation and use privileges of airports and air navigation facilities; providing for liens in favor of counties and municipalities; providing for the creation by counties and municipalities of airport officers, boards or agencies to administer certain powers over airports and air navigation facilities; authorizing penalties for violations of municipal ordinances and regulations; providing for the levying of taxes and issuance of bonds; validating prior acquisitions, actions and bond issues; providing a special fund; providing for the acceptance and use by municipalities of Federal and State aid; authorizing joint action by municipalities and other public agencies; declaring the afore-mentioned matters and powers, public and governmental functions; providing tax exemptions for municipal airports and income thereof; providing a saving clause; making this Act cumulative of and in addition to all laws of the State of Texas on this subject; and declaring an emergency.

[97] Vernon's Ann.Civ.St., arts. 46d—1 to 46d—22.

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