

SENATE, No. 2407

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 23, 2016

Sponsored by:

Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS

“Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning workers' compensation, public safety workers
2 and other employees and supplementing chapter 15 of Title 34 of
3 the Revised Statutes.

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. This act shall be known and may be cited as the "Thomas P.
9 Canzanella Twenty First Century First Responders Protection Act."

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11 2. The Legislature hereby finds and declares:

12 a. Since the terrorist attacks of September 11, 2001, and the
13 subsequent discovery of terrorist use of anthrax against American
14 citizens that year, millions of dollars of State and federal funds have
15 been spent, and many thousands of man-hours dedicated, to train
16 and equip public safety workers in New Jersey regarding the
17 management of terrorist attacks and other man-made or natural
18 disasters;

19 b. Public safety workers are required by necessity to take great
20 personal risks of serious injury, illness and death in their duties to
21 protect the people of New Jersey from the dangers of catastrophic
22 emergencies, including, but in no way limited to, terrorist attacks
23 and epidemics;

24 c. The risks of exposure to carcinogens, communicable
25 diseases, radiation and related hazards to health, already especially
26 high for fire, police, emergency, medical and other public safety
27 workers, is further increased by the duties of such workers in
28 response to catastrophic emergencies, epidemics, and terrorist
29 attacks which may involve materials related to biological or
30 chemical warfare, or industrial chemicals or other hazardous
31 materials released in connection with terrorist attacks against
32 military, governmental, industrial, infrastructural, and other
33 vulnerable facilities; and

34 d. Many of the severe, painful and even fatal diseases and
35 health conditions which afflict these workers because of those
36 exposures and duties, such as cancer, may take long periods of time
37 to manifest themselves;

38 e. It is therefore an appropriate public policy to modernize the
39 workers' compensation system in this State to ensure the meeting of
40 the critical needs of public safety workers who are New Jersey's
41 first line of defense in the event of catastrophic emergencies,
42 epidemics and terrorist attacks, and assure that those workers are
43 not denied a level of support which is commensurate to the
44 sacrifices they and their families make for the safety and wellbeing
45 of the citizens of this State and the nation.

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47 3. For the purposes of this act:

48 "Hazardous chemicals or materials used in, or related to,
49 chemical warfare" means chemicals and materials which may be

1 used in chemical warfare, including, but not limited to, nerve
2 agents, chemical asphyxiates, choking agents, blister agents,
3 incapacitating agents, explosives, and includes other toxic,
4 carcinogenic or otherwise hazardous industrial chemicals and
5 materials to which public safety workers and members of the public
6 may be exposed in connection with possible terrorist attacks against
7 military, governmental, industrial, infrastructural, and other
8 vulnerable facilities.

9 "Known carcinogen" means a substance which may cause
10 cancer, including any substance identified as a carcinogen by the
11 State Department of Health or by the International Agency for
12 Research on Cancer.

13 "Pathogens or biological toxins used in, or related to, biological
14 warfare or epidemics" means serious communicable diseases,
15 pathogens not necessarily transmitted by sick or infected
16 individuals, such as anthrax, and biological toxins, such as ricin,
17 whether or not in weaponized form.

18 "Public safety worker" includes, but is not limited to, a member,
19 employee, or officer of a paid, partially-paid, or volunteer fire or
20 police department, force, company or district, including the State
21 Police, a Community Emergency Response Team approved by the
22 New Jersey Office of Emergency Management, or a correctional
23 facility, or a basic or advanced medical technician of a first aid or
24 rescue squad, or any other nurse, basic or advanced medical
25 technician responding to a catastrophic incident and directly
26 involved and in contact with the public during such an incident,
27 either as a volunteer, member of a Community Emergency
28 Response Team or employed or directed by a health care facility.

29 "Serious communicable disease" means any disease which is
30 characterized by the interruption, cessation or disorder of body
31 functions, systems or organs which may result, if not treated, in
32 disability, chronic illness or death, and is transmittable by
33 association with, or proximity to, sick, infected or colonized
34 individuals, including airborne transmission, or is transmittable by
35 contact with their bodily fluids, secretions or excretions. "Serious
36 communicable disease" includes, but is not limited to, meningitis,
37 tuberculosis, viral hepatitis, human immunodeficiency virus
38 infections, acquired immunodeficiency syndrome, cholera,
39 hemorrhagic fever, plague, smallpox, or other disease identified as a
40 serious communicable disease by the Department of Health, and
41 also includes diseases caused by antibiotic resistant organisms.

42

43 4. If in the course of a public safety worker's employment, the
44 worker is:

45 a. exposed to the excretions, secretions, blood or other bodily
46 fluids of one or more other individuals or is otherwise subjected to a
47 potential exposure, by the other individual or individuals, including
48 airborne exposure, to a serious communicable disease and any one

1 of the other individuals is diagnosed with a serious communicable
2 disease, has symptoms consistent with the serious communicable
3 disease, or is otherwise determined to be infected with or at
4 significant risk of contracting the serious communicable disease; or
5 b. exposed to any pathogen or biological toxins used in, or
6 related to, biological warfare or epidemics, including airborne
7 exposure, then all care or treatment of the public safety worker,
8 including testing, diagnosis, surveillance or other services needed to
9 ascertain whether the public safety worker contracted a serious
10 communicable disease and any related monitoring of the workers'
11 condition, and all time during which the public safety worker is
12 unable to work while receiving the care or treatment, shall be
13 compensable under the provisions of R.S.34:15-1 et seq., even if,
14 after the care or treatment, it is ascertained that the public safety
15 worker did not contract a serious communicable disease. If it is
16 ascertained that the public safety worker has contracted a serious
17 communicable disease or related illness under the circumstances set
18 forth in this section, there shall be a presumption that any injury,
19 disability, chronic or corollary illness or death of the public safety
20 worker caused by, attributable to, or attendant to the disease is
21 compensable under the provisions of R.S.34:15-1 et seq., but this
22 presumption may be rebutted by clear and convincing proof that the
23 exposure is not linked to the occurrence of the disease. The
24 employer may require the worker to undergo, at the expense of the
25 employer, reasonable testing, evaluation and monitoring of health
26 conditions of the worker which is relevant to determining whether
27 the exposure is linked to the occurrence of the disease, but the
28 presumption of compensability shall not be adversely affected by
29 any failure of the employer to require such testing, evaluation or
30 monitoring.

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32 5. Any injury, illness or death of any employee, including a
33 public safety worker, resulting from the administration to the
34 employee of a vaccine including, but not limited to, smallpox
35 vaccine, to prepare for, or respond to, any actual, threatened, or
36 potential bioterrorism or epidemic, as part of an inoculation
37 program in connection with the employee's employment or in
38 connection with any governmental program or recommendation for
39 the inoculation of workers in the employee's occupation,
40 geographical area, or other category that includes the employee, or
41 resulting from the transmission of disease from another employee or
42 member of the public inoculated under the program, is deemed to
43 arise out of and in the course of the employment and all care or
44 treatment of the employee, including testing, diagnosis, surveillance
45 and monitoring of the employee's condition, and all time during
46 which the employee is unable to work while receiving the care or
47 treatment, is compensable under the provisions of R.S.34:15-1 et
48 seq. This section shall not be regarded as authorizing any

1 requirement that employees participate in an inoculation program or
2 as diminishing any requirement of law that an inoculation program
3 be voluntary.

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5 6. Any injury, illness or death of a public safety worker which
6 may be caused by exposure to a known carcinogen, cancer-causing
7 radiation or a radioactive substance, including cancer and damage
8 to reproductive organs, shall be presumed to be compensable under
9 the provisions of R.S.34:15-1 et seq., if the worker demonstrates
10 that he was exposed, due to fire, explosion, spill or other means, to
11 a known carcinogen, cancer-causing radiation or radioactive
12 substances in the course of the worker's employment as a public
13 safety worker. This presumption may be rebutted by clear and
14 convincing proof that the exposure is not linked to the injury,
15 illness or death. The employer of the public safety worker may
16 require the worker to undergo, at the expense of the employer,
17 reasonable testing, evaluation and monitoring of health conditions
18 of the worker which is relevant to determining whether the exposure
19 is linked to the occurrence, but the presumption of compensability
20 shall not be adversely affected by any failure of the employer to
21 require such testing, evaluation or monitoring. The employer shall
22 maintain records regarding any instance in which any public safety
23 worker in its employ was deployed to a facility or location where
24 the presence of one or more substances which are known
25 carcinogens is indicated in documents provided to local fire or
26 police departments pursuant to the requirements of section 7 of
27 P.L.1983, c.315 (C.34:5A-7) and where fire, explosions, spills or
28 other events occurred which could result in exposure to those
29 carcinogens. The records shall include the identity of each deployed
30 public safety worker and each worker shall be provided notice of
31 the records.

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33 7. Any injury, illness or death of a firefighter which may be
34 caused by cancer, including leukemia, shall be presumed to be an
35 occupational disease compensable under the provisions of
36 R.S.34:15-1 et seq., if the firefighter has completed not less than
37 seven years of service as a firefighter. This presumption may be
38 rebutted by clear and convincing evidence that the occupational
39 disease did not arise out of and in the course of the employment.
40 The employer may require the firefighter to undergo, at the expense
41 of the employer, reasonable testing, evaluation and monitoring of
42 health conditions of the firefighter which is relevant to determining
43 whether the occupational disease arose out of and in the course of
44 the employment, but the presumption of compensability shall not be
45 adversely affected by any failure of the employer to require such
46 testing, evaluation or monitoring. A firefighter with less than seven
47 years of service as a firefighter shall be subject to the provisions of
48 section 6 of this act.

1 8. This act is intended to affirm certain rights of public safety
2 workers and other employees under the circumstances specified in
3 this act with respect to compensation provided pursuant to
4 R.S.34:15-1 et seq. and shall not be construed as reducing, limiting
5 or curtailing any rights of any other worker or employee to
6 compensation pursuant to R.S.34:15-1 et seq. or of any worker with
7 respect to any claim for compensation pursuant to R.S.34:15-1 et
8 seq., including a claim initiated prior to the effective date of this
9 act.

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11 9. This act shall take effect immediately.

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STATEMENT

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16 This bill creates a rebuttable presumption of workers'
17 compensation coverage for public safety workers and other
18 employees in certain circumstances.

19 The bill affirms that if, in the course of employment, a public
20 safety worker is exposed to a serious communicable disease or a
21 biological warfare or epidemic-related pathogen or biological toxin,
22 all care or treatment of the worker, including services needed to
23 ascertain whether the worker contracted the disease, shall be
24 compensable under workers' compensation, even if the worker is
25 found not to have contracted the disease. If the worker is found to
26 have contracted a disease, there shall be a rebuttable presumption
27 that any injury, disability, chronic or corollary illness or death
28 caused by the disease is compensable under workers' compensation.

29 The bill affirms workers' compensation coverage for any injury,
30 illness or death of any employee, including an employee who is not
31 a public safety worker, arising from the administration of a vaccine
32 related to threatened or potential bioterrorism or epidemic as part of
33 an inoculation program in connection with the employee's
34 employment or in connection with any governmental program or
35 recommendation for the inoculation of workers.

36 The bill creates a rebuttable presumption that any condition or
37 impairment of health of a public safety worker which may be
38 caused by exposure to cancer-causing radiation or radioactive
39 substances is a compensable occupational disease under workers'
40 compensation if the worker was exposed to a carcinogen, or the
41 cancer-causing radiation or radioactive substance, in the course of
42 employment. Employers are required to maintain records of
43 instances of the workers deployed where the presence of known
44 carcinogens was indicated by documents provided to local fire or
45 police departments under the "Worker and Community Right to
46 Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events
47 occurred which could result in exposure to those carcinogens.

48 In the case of any firefighter with seven or more years of service,
49 the bill creates a rebuttable presumption that, if the firefighter

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1 suffers an injury, illness or death which may be caused by cancer,
2 the cancer is a compensable occupational disease.

3 The bill provides that, with respect to all of the rebuttable
4 presumptions of coverage, employers may require workers to
5 undergo, at employer expense, reasonable testing, evaluation and
6 monitoring of worker health conditions relevant to determining
7 whether exposures or other presumed causes are actually linked to
8 the deaths, illnesses or disabilities, and further provides that the
9 presumptions of compensability are not adversely affected by
10 failures of employers to require testing, evaluation or monitoring.

11 The public safety workers covered by the bill include paid or
12 volunteer emergency, correctional, fire, police and medical
13 personnel.