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

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 5/8/2018)
AN ACT concerning workers’ compensation, public safety workers and other employees and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

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

2. The Legislature hereby finds and declares:
   a. Since the terrorist attacks of September 11, 2001, and the subsequent discovery of terrorist use of anthrax against American citizens that year, millions of dollars of State and federal funds have been spent, and many thousands of man-hours dedicated, to train and equip public safety workers in New Jersey regarding the management of terrorist attacks and other man-made or natural disasters;
   b. Public safety workers are required by necessity to take great personal risks of serious injury, illness and death in their duties to protect the people of New Jersey from the dangers of catastrophic emergencies, including, but in no way limited to, terrorist attacks and epidemics;
   c. The risks of exposure to carcinogens, communicable diseases, radiation and related hazards to health, already especially high for fire, police, emergency, medical and other public safety workers, is further increased by the duties of such workers in response to catastrophic emergencies, epidemics, and terrorist attacks which may involve materials related to biological or chemical warfare, or industrial chemicals or other hazardous materials released in connection with terrorist attacks against military, governmental, industrial, infrastructural, and other vulnerable facilities; and
   d. Many of the severe, painful and even fatal diseases and health conditions which afflict these workers because of those exposures and duties, such as cancer, may take long periods of time to manifest themselves;
   e. It is therefore an appropriate public policy to modernize the workers’ compensation system in this State to ensure the meeting of the critical needs of public safety workers who are New Jersey’s first line of defense in the event of catastrophic emergencies, epidemics and terrorist attacks, and assure that those workers are not denied a level of support which is commensurate to the sacrifices they and their families make for the safety and wellbeing of the citizens of this State and the nation.

3. For the purposes of this act:
“Hazardous chemicals or materials used in, or related to, chemical warfare” means chemicals and materials which may be used in chemical warfare, including, but not limited to, nerve agents, chemical asphyxiates, choking agents, blister agents, incapacitating agents, explosives, and includes other toxic, carcinogenic or otherwise hazardous industrial chemicals and materials to which public safety workers and members of the public may be exposed in connection with possible terrorist attacks against military, governmental, industrial, infrastructural, and other vulnerable facilities.

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

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

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

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

4. If in the course of a public safety worker’s employment, the worker is:
   a. exposed to the excretions, secretions, blood or other bodily fluids of one or more other individuals or is otherwise subjected to a
potential exposure, by the other individual or individuals, including
airborne exposure, to a serious communicable disease and any one
of the other individuals is diagnosed with a serious communicable
disease, has symptoms consistent with the serious communicable
disease, or is otherwise determined to be infected with or at
significant risk of contracting the serious communicable disease; or
b. exposed to any pathogen or biological toxins used in, or
related to, biological warfare or epidemics, including airborne
exposure, then all care or treatment of the public safety worker,
including testing, diagnosis, surveillance or other services needed to
ascertain whether the public safety worker contracted a serious
communicable disease and any related monitoring of the workers’
condition, and all time during which the public safety worker is
unable to work while receiving the care or treatment, shall be
compensable under the provisions of R.S.34:15-1 et seq., even if,
after the care or treatment, it is ascertained that the public safety
worker did not contract a serious communicable disease. If it is
ascertained that the public safety worker has contracted a serious
communicable disease or related illness under the circumstances set
forth in this section, there shall be a presumption that any injury,
disability, chronic or corollary illness or death of the public safety
worker caused by, attributable to, or attendant to the disease is
compensable under the provisions of R.S.34:15-1 et seq., but this
presumption may be rebutted by clear and convincing proof that the
exposure is not linked to the occurrence of the disease. The
employer may require the worker to undergo, at the expense of the
employer, reasonable testing, evaluation and monitoring of health
conditions of the worker which is relevant to determining whether
the exposure is linked to the occurrence of the disease, but the
presumption of compensability shall not be adversely affected by
any failure of the employer to require such testing, evaluation or
monitoring.

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

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

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

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

9. This act shall take effect immediately.

STATEMENT

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

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

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

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

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

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

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