

(CORRECTED COPY)

P.L. 2019, CHAPTER 156, *approved July 8, 2019*

Senate, No. 716 (*First Reprint*)

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.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Thomas P.
9 Canzanella Twenty First Century First Responders Protection Act."

10
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;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 13, 2019.

1 e. It is therefore an appropriate public policy to modernize the
2 workers' compensation system in this State to ensure the meeting of
3 the critical needs of public safety workers who are New Jersey's
4 first line of defense in the event of catastrophic emergencies,
5 epidemics and terrorist attacks, and assure that those workers are
6 not denied a level of support which is commensurate to the
7 sacrifices they and their families make for the safety and wellbeing
8 of the citizens of this State and the nation.

9
10 3. For the purposes of this act:

11 "Hazardous chemicals or materials used in, or related to,
12 chemical warfare" means chemicals and materials which may be
13 used in chemical warfare, including, but not limited to, nerve
14 agents, chemical asphyxiates, choking agents, blister agents,
15 incapacitating agents, explosives, and includes other toxic,
16 carcinogenic or otherwise hazardous industrial chemicals and
17 materials to which public safety workers and members of the public
18 may be exposed in connection with possible terrorist attacks against
19 military, governmental, industrial, infrastructural, and other
20 vulnerable facilities.

21 "Known carcinogen" means a substance which ¹~~["may cause~~
22 cancer, including any substance identified as a carcinogen] is
23 known, or generally accepted by the scientific community to cause
24 cancer in humans, as identified¹ by the State Department of Health
25 or by the International Agency for Research on Cancer.

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

31 "Public safety worker" includes ¹~~["~~, but is not limited to,~~"]~~¹ a
32 member, employee, or officer of a paid, partially-paid, or volunteer
33 fire or police department, force, company or district, including the
34 State Police, a Community Emergency Response Team approved by
35 the New Jersey Office of Emergency Management, or a correctional
36 facility, or a basic or advanced medical technician of a first aid or
37 rescue squad, or any other nurse, basic or advanced medical
38 technician responding to a catastrophic incident and directly
39 involved and in contact with the public during such an incident,
40 either as a volunteer, member of a Community Emergency
41 Response Team or employed or directed by a health care facility.

42 "Serious communicable disease" means any disease which is
43 characterized by the interruption, cessation or disorder of body
44 functions, systems or organs which may result, if not treated, in
45 disability, chronic illness or death, and is transmittable by
46 association with, or proximity to, sick, infected or colonized
47 individuals, including airborne transmission, or is transmittable by
48 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 'a public safety worker can demonstrate that' in the course of '[a public safety worker's] his or her' employment, the worker is:

a. exposed to¹:

(1)¹ 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, ¹[has symptoms consistent with the serious communicable disease,]¹ or is otherwise determined to be infected with or at significant risk of contracting the serious communicable disease; or

¹[b. exposed to] (2)¹ any pathogen or biological ¹[toxins] toxin¹ 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 worker's 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.

¹b.¹ If it is ascertained that the public safety worker has contracted a serious communicable disease or related illness under the circumstances set forth in 'subsection a. of' 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. ¹[, but this] This prima facie¹ presumption may be rebutted by ¹[clear and convincing proof] a preponderance of the evidence showing¹ 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.

1 5. Any injury, illness or death of any ¹['employee, including
2 a] ¹public safety worker, resulting from the administration to the
3 ¹['employee] worker ¹ of a vaccine including, but not limited to,
4 smallpox vaccine, to prepare for, or respond to, any actual,
5 threatened, or potential bioterrorism or epidemic, as part of an
6 inoculation program in connection with the ¹['employee's]
7 worker's ¹ employment or in connection with any governmental
8 program or recommendation for the inoculation of workers in the
9 ¹['employee's] worker's ¹ occupation, geographical area, or other
10 category that includes the ¹['employee] worker ¹, or resulting from
11 the transmission of disease from another employee or member of
12 the public inoculated under the program, is ¹['deemed] presumed ¹
13 to arise out of and in the course of the employment and all care or
14 treatment of the ¹['employee] worker ¹, including testing, diagnosis,
15 surveillance and monitoring of the ¹['employee's] worker's ¹
16 condition, and all time during which the ¹['employee] worker ¹ is
17 unable to work while receiving the care or treatment, is
18 compensable under the provisions of R.S.34:15-1 et seq. This
19 section shall not be regarded as authorizing any requirement that
20 employees participate in an inoculation program or as diminishing
21 any requirement of law that an inoculation program be voluntary.
22 ¹This prima facie presumption may be rebutted by a preponderance
23 of the evidence showing that the administration of the vaccine is not
24 linked to the injury, illness or death. The employer may require the
25 worker to undergo, at the expense of the employer, reasonable
26 testing, evaluation and monitoring of health conditions of the
27 worker which is relevant to determining whether the administration
28 of the vaccine is linked to the occurrence, but the presumption of
29 compensability shall not be adversely affected by any failure of the
30 employer to require such testing, evaluation or monitoring. ¹

31
32 6. Any injury, illness or death of a public safety worker which
33 may be caused by exposure to a known carcinogen, cancer-causing
34 radiation or a radioactive substance, including cancer and damage
35 to reproductive organs, shall be presumed to be compensable under
36 the provisions of R.S.34:15-1 et seq., if the worker demonstrates
37 that he was exposed, due to fire, explosion, spill or other means, to
38 a known carcinogen, cancer-causing radiation or radioactive
39 substances in the course of the worker's employment as a public
40 safety worker ¹and demonstrates that the injury, illness or death has
41 manifested during his or her employment as a public safety
42 worker ¹. This ¹prima facie ¹ presumption may be rebutted by
43 ¹['clear and convincing proof] a preponderance of the evidence ¹
44 that the exposure is not linked to the injury, illness or death. The
45 employer of the public safety worker may require the worker to
46 undergo, at the expense of the employer, reasonable testing,

1 evaluation and monitoring of health conditions of the worker which
2 is relevant to determining whether the exposure is linked to the
3 occurrence, but the presumption of compensability shall not be
4 adversely affected by any failure of the employer to require such
5 testing, evaluation or monitoring. The employer shall maintain
6 records regarding any instance in which any public safety worker in
7 its employ was deployed to a facility or location where the presence
8 of one or more substances which are known carcinogens is
9 indicated in documents provided to local fire or police departments
10 pursuant to the requirements of section 7 of P.L.1983, c.315
11 (C.34:5A-7) and where fire, explosions, spills or other events
12 occurred which could result in exposure to those carcinogens. The
13 records shall include the identity of each deployed public safety
14 worker and each worker shall be provided notice of the records.

15
16 7. Any injury, illness or death of a firefighter which may be
17 caused by cancer, including leukemia, shall be presumed to be an
18 occupational disease compensable under the provisions of
19 R.S.34:15-1 et seq., if the firefighter has completed not less than
20 seven years of service as a firefighter ¹, regardless of whether the
21 firefighter is in active service or is no longer in active service of a
22 paid, part-paid, or volunteer fire department at the time of the
23 injury, illness or death, provided that the firefighter is not more than
24 75 years of age or has not been out of active service for more than
25 20 years¹. This ¹prima facie¹ presumption may be rebutted by
26 ¹clear and convincing ¹a preponderance of the¹ evidence that the
27 occupational disease did not arise out of and in the course of the
28 employment. The employer may require the firefighter to undergo,
29 at the expense of the employer, reasonable testing, evaluation and
30 monitoring of health conditions of the firefighter which is relevant
31 to determining whether the occupational disease arose out of and in
32 the course of the employment, but the presumption of
33 compensability shall not be adversely affected by any failure of the
34 employer to require such testing, evaluation or monitoring. ¹In
35 order to receive this occupational cancer disability benefit, the type
36 of cancer involved shall be a type which may be caused by exposure
37 to heat, radiation, or a known or suspected carcinogen as defined by
38 the International Agency for Research on Cancer.¹ A firefighter
39 with less than seven years of service as a firefighter ¹who
40 experiences injury, illness or death which may be caused by
41 exposure to a known carcinogen, cancer-causing radiation or a
42 radioactive substance, including cancer and damage to reproductive
43 organs,¹ shall be subject to the provisions of section 6 of this act.

44
45 8. This act is intended to affirm certain rights of public safety
46 workers and other employees under the circumstances specified in
47 this act with respect to compensation provided pursuant to

1 R.S.34:15-1 et seq. and shall not be construed as reducing, limiting
2 or curtailing any rights of any other worker or employee to
3 compensation pursuant to R.S.34:15-1 et seq. or of any worker with
4 respect to any claim for compensation pursuant to R.S.34:15-1 et
5 seq., including a claim initiated prior to the effective date of this
6 act.

7
8 ¹9. On the first day of the 18th month following the date of
9 enactment of P.L. , c. (C.) (pending before the Legislature
10 as this bill) and annually on the anniversary of the effective date of
11 P.L. , c. (C.) (pending before the Legislature as this bill), the
12 Commissioner of the Department of Labor and Workforce
13 Development shall, pursuant to section 2 of P.L.1991, c.164
14 (C.52:14-19.1) and in a manner consistent with section 1 of
15 P.L.1966, c.164 (C.34:15-128), submit to the Legislature, a report
16 containing available information regarding:

17 a. The number of claim petitions with respect to which a
18 determination was rendered by the Division of Workers'
19 Compensation during the previous calendar year that an injury or
20 illness enumerated within Sections 4 through 7 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) is
22 compensable; and

23 b. The total amount of workers' compensation benefits
24 awarded by the Division of Workers' Compensation for the claim
25 petitions counted under subsection a. of this section, including
26 medical benefits, temporary total disability benefits, permanent
27 partial benefits, and permanent total benefits.¹

28
29 ¹[9.] 10.¹ This act shall take effect immediately.

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34 "Thomas P. Canzanella Twenty First Century First Responders
35 Protection Act"; concerns workers' compensation for public safety
36 workers.