

P.L. 1997, CHAPTER 199, *approved August 14, 1997*  
Senate, No. 128

1 AN ACT providing workers' compensation for certain volunteers and  
2 amending R.S.34:15-10, R.S.34:15-43, R.S.34:15-75 and  
3 N.J.S.59:1-3.

4

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

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8 1. R.S.34:15-10 is amended to read as follows:

9 34:15-10. In the employment of minors, this article shall be  
10 presumed to apply unless the notice be given by or to the parent or  
11 guardian of the minor. If the injured employee at the time of the  
12 accident or compensable occupational disease is a minor under 14  
13 years of age employed in violation of the labor law or a minor between  
14 14 and 18 years of age employed, permitted or suffered to work  
15 without an employment certificate or special permit if required by law  
16 or at an occupation prohibited at the minor's age by law, a  
17 compensation or death benefit shall be payable to the employee or his  
18 dependents which shall be double the amount payable under the  
19 schedules provided in R.S.34:15-12 and R.S.34:15-13.

20 The possession of such duly issued employment certificate shall be  
21 conclusive evidence for an employer that the minor has reached the  
22 age certified to therein and no extra compensation shall be payable to  
23 any minor engaged in an employment allowed by the law for the age  
24 and sex certified to in such certificate. If the certificate presented by  
25 the employee as one issued to that person shall have been really issued  
26 to another child and the real age of the employee shall be such that  
27 employment in any capacity or in the particular capacity the employee  
28 was employed by the employer was prohibited and if the employer  
29 shall show to the satisfaction of the Division of Workers'  
30 Compensation that the employer accepted the certificate in good faith  
31 as having been issued to the employee and could not have, despite  
32 reasonable diligence, discovered the fraud, in such event no extra  
33 compensation shall be paid to the employee illegally employed.

34 The employer alone and not the insurance carrier shall be liable for

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

**Matter underlined thus is new matter.**

1 the extra compensation or death benefit which is over and above the  
2 amount of the compensation or death benefit provided under  
3 R.S.34:15-12 or R.S.34:15-13. Any provision in an insurance policy  
4 undertaking to relieve an employer from the liability for the extra  
5 compensation or extra death benefit shall be void.

6 Nothing in this chapter contained shall deprive an infant under the  
7 age of 18 years of the right or rights now existing to recover damages  
8 in a common law or other appropriate action or proceeding for injuries  
9 received by reason of the negligence of his or her master.

10 Nothing in this section regarding the payment of a compensation or  
11 death benefit in double the amount payable under the schedules  
12 provided in R.S.34:15-12 and R.S.34:15-13 shall apply to: members  
13 of a junior firemen's auxiliary established pursuant to [P.L.1968, c.309  
14 (C.40:47-30.6 et seq.)] N.J.S.40A:14-95; employees, of the age of 18  
15 years or under, employed in summer camps operated by the Boy  
16 Scouts of America, the Girl Scouts of America, the Knights of  
17 Columbus, the Young Men's Christian Association, the Young  
18 Women's Christian Association, the Young Men's Hebrew Association,  
19 or any domestic corporation organized solely for religious or  
20 charitable purposes; student-learners employed in a cooperative  
21 vocational education program approved by the State Board of  
22 Education; [or] persons, 18 years of age or younger, participating,  
23 under the supervision of the Palisades Interstate Park Commission, in  
24 volunteer programs in that part of the Palisades Interstate Park located  
25 in New Jersey; or persons, 18 years of age or younger, doing volunteer  
26 work for the Division of Parks and Forestry, the Division of Fish,  
27 Game and Wildlife, the New Jersey Natural Lands Trust or the New  
28 Jersey Historic Trust, as authorized by the Commissioner of  
29 Environmental Protection.

30 (cf: P.L.1987, c.259, s.2)

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32 2. R.S.34:15-43 is amended to read as follows:

33 34:15-43. Every officer, appointed or elected, and every employee  
34 of the State, county, municipality or any board or commission, or any  
35 other governing body, including boards of education, and governing  
36 bodies of service districts, individuals who are under the general  
37 supervision of the Palisades Interstate Park Commission and who work  
38 in that part of the Palisades Interstate Park which is located in this  
39 State, and also each and every member of a volunteer fire company  
40 doing public fire duty and also each and every active volunteer, first  
41 aid or rescue squad worker, including each and every authorized  
42 worker who is not a member of the volunteer fire company within  
43 which the first aid or rescue squad may have been created, doing  
44 public first aid or rescue duty under the control or supervision of any  
45 commission, council, or any other governing body of any municipality,  
46 any board of fire commissioners of such municipality or of any fire

1 district within the State, or of the board of managers of any State  
2 institution, every county fire marshal and assistant county fire marshal,  
3 every special, reserve or auxiliary policeman doing volunteer public  
4 police duty under the control or supervision of any commission,  
5 council or any other governing body of any municipality [and], every  
6 emergency management volunteer doing emergency management  
7 service for the State and any person doing volunteer work for the  
8 Division of Parks and Forestry, the Division of Fish, Game and  
9 Wildlife, the New Jersey Natural Lands Trust or the New Jersey  
10 Historic Trust, as authorized by the Commissioner of Environmental  
11 Protection, who may be injured in line of duty shall be compensated  
12 under and by virtue of the provisions of this article and article 2 of this  
13 chapter (R.S.34:15-7 et seq.). No former employee who has been  
14 retired on pension by reason of injury or disability shall be entitled  
15 under this section to compensation for such injury or disability;  
16 provided, however, that such employee, despite retirement, shall,  
17 nevertheless, be entitled to the medical, surgical and other treatment  
18 and hospital services as set forth in R.S.34:15-15.

19 Benefits available under this section to emergency management  
20 volunteers and volunteers participating in activities of the Division of  
21 Parks and Forestry, the Division of Fish, Game and Wildlife, the New  
22 Jersey Natural Lands Trust or the New Jersey Historic Trust, shall not  
23 be paid to any claimant who has another single source of injury or  
24 death benefits that provides the claimant with an amount of  
25 compensation that exceeds the compensation available to the claimant  
26 under R.S.34:15-1 et seq.

27 As used in this section, the terms "doing public fire duty" and "who  
28 may be injured in line of duty," as applied to members of volunteer fire  
29 companies, county fire marshals or assistant county fire marshals, and  
30 the term "doing public first aid or rescue duty," as applied to active  
31 volunteer first aid or rescue squad workers, shall be deemed to include  
32 participation in any authorized construction, installation, alteration,  
33 maintenance or repair work upon the premises, apparatus or other  
34 equipment owned or used by the fire company or the first aid or rescue  
35 squad, participation in any authorized public drill, showing, exhibition,  
36 fund raising activity or parade, and to include also the rendering of  
37 assistance in case of fire and, when authorized, in connection with  
38 other events affecting the public health or safety, in any political  
39 subdivision or territory of another state of the United States or on  
40 property ceded to the federal government while such assistance is  
41 being rendered and while going to and returning from the place in  
42 which it is rendered.

43 Also, as used in this section, "doing public police duty" and "who  
44 may be injured in line of duty" as applied to special, reserve or  
45 auxiliary policemen, shall be deemed to include participation in any  
46 authorized public drill, showing, exhibition or parade, and to include

1 also the rendering of assistance in connection with other events  
2 affecting the public health or safety in the municipality, and also, when  
3 authorized, in connection with any such events in any political  
4 subdivision or territory of this or any other state of the United States  
5 or on property ceded to the federal government while such assistance  
6 is being rendered and while going to and returning from the place in  
7 which it is rendered.

8 As used in this section, the terms "doing emergency management  
9 service" and "who may be injured in the line of duty" as applied to  
10 emergency management volunteers mean participation in any activities  
11 authorized pursuant to P.L.1942, c.251 (C.App. A:9-33 et seq.),  
12 except that the terms shall not include activities engaged in by a  
13 member of an emergency management agency of the United States  
14 Government or of another state, whether pursuant to a mutual aid  
15 compact or otherwise.

16 Every member of a volunteer fire company shall be deemed to be  
17 doing public fire duty under the control or supervision of any such  
18 commission, council, governing body, board of fire commissioners or  
19 fire district or board of managers of any State institution within the  
20 meaning of this section, if such control or supervision is provided for  
21 by statute or by rule or regulation of the board of managers or the  
22 superintendent of such State institution, or if the fire company of  
23 which he is a member receives contributions from, or a substantial part  
24 of its expenses or equipment are paid for by, the municipality, or board  
25 of fire commissioners of the fire district or if such fire company has  
26 been or hereafter shall be designated by ordinance as the fire  
27 department of the municipality.

28 Every active volunteer, first aid or rescue squad worker, including  
29 every authorized worker who is not a member of the volunteer fire  
30 company within which the first aid or rescue squad may have been  
31 created, shall be deemed to be doing public first aid or rescue duty  
32 under the control or supervision of any such commission, council,  
33 governing body, board of fire commissioners or fire district within the  
34 meaning of this section if such control or supervision is provided for  
35 by statute, or if the first aid or rescue squad of which he is a member  
36 or authorized worker receives or is eligible to receive contributions  
37 from, or a substantial part of its expenses or equipment are paid for by,  
38 the municipality, or board of fire commissioners of the fire district, or  
39 if such first aid or rescue squad has been or hereafter shall be  
40 designated by ordinance as the first aid or rescue squad of the  
41 municipality.

42 As used in this section and in R.S.34:15-74, the term "authorized  
43 worker" shall mean and include, in addition to an active volunteer  
44 fireman and an active volunteer first aid or rescue squad worker, any  
45 person performing any public fire duty or public first aid or rescue  
46 squad duty, as the same are defined in this section, at the request of

1 the chief or acting chief of a fire company or the president or person  
2 in charge of a first aid or rescue squad for the time being.

3 Nothing herein contained shall be construed as affecting or  
4 changing in any way the provisions of any statute providing for sick,  
5 disability, vacation or other leave for public employees or any  
6 provision of any retirement or pension fund provided by law.

7 (cf: P.L.1995, c.383, s.1)

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9 3. R.S.34:15-75 is amended to read as follows:

10 34:15-75. Compensation for injury and death, either or both, of any  
11 volunteer fireman, county fire marshal, assistant county fire marshal,  
12 volunteer first aid or rescue squad worker, volunteer driver of any  
13 municipally-owned or operated ambulance, forest fire warden or forest  
14 fire fighter employed by the State of New Jersey, member of a board  
15 of education, special reserve or auxiliary policeman doing volunteer  
16 public police duty under the control or supervision of any commission,  
17 council or any other governing body of any municipality, [or]  
18 emergency management volunteer doing emergency management  
19 service, or any volunteer worker for the Division of Parks and  
20 Forestry, the Division of Fish, Game and Wildlife, the New Jersey  
21 Natural Lands Trust or the New Jersey Historic Trust, shall be based  
22 upon a weekly salary or compensation conclusively presumed to be  
23 received by such person in an amount sufficient to entitle him, or, in  
24 the event of his death, his dependents, to receive the maximum  
25 compensation by this chapter authorized.

26 (cf: P.L.1995, c.383, s.3)

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28 4. N.J.S.59:1-3 is amended to read as follows:

29 59:1-3. Definitions. As used in this subtitle:

30 "Employee" includes an officer, employee, or servant, whether or  
31 not compensated or part-time, who is authorized to perform any act  
32 or service; provided, however, that the term does not include an  
33 independent contractor.

34 "Employment" includes office; position; employment; or service,  
35 under the supervision of the Palisades Interstate Park Commission, in  
36 a volunteer program in that part of the Palisades Interstate Park  
37 located in New Jersey, [or] as an emergency management volunteer or  
38 as a volunteer doing work for the Division of Parks and Forestry, the  
39 Division of Fish, Game and Wildlife, the New Jersey Natural Lands  
40 Trust or the New Jersey Historic Trust, as authorized by the  
41 Commissioner of Environmental Protection.

42 "Enactment" includes a constitutional provision, statute, executive  
43 order, ordinance, resolution or regulation.

44 "Injury" means death, injury to a person, damage to or loss of  
45 property or any other injury that a person may suffer that would be  
46 actionable if inflicted by a private person.

1 "Law" includes enactments and also the decisional law applicable  
2 within this State as determined and declared from time to time by the  
3 courts of this State and of the United States.

4 "Public employee" means an employee of a public entity, and  
5 includes: a person participating, under the supervision of the Palisades  
6 Interstate Park Commission, in a volunteer program in that part of the  
7 Palisades Interstate Park located in New Jersey; a volunteer doing  
8 work for the Division of Parks and Forestry, the Division of Fish,  
9 Game and Wildlife, the New Jersey Natural Lands Trust or the New  
10 Jersey Historic Trust, as authorized by the Commissioner of  
11 Environmental Protection; and any person retained by the public  
12 defender to serve as an arbitrator, mediator, or in such similar  
13 capacity. "Public employee" does not include any independent  
14 contractors or other individuals, agencies, or entities not established  
15 in or employed by the Office of the Public Defender designated to  
16 provide protection and advocacy services to indigent mental hospital  
17 admittees or persons with a developmental disability as the term is  
18 defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

19 "Public entity" includes the State, and any county, municipality,  
20 district, public authority, public agency, and any other political  
21 subdivision or public body in the State. "Public entity" does not  
22 include any independent contractors or other individuals, agencies, or  
23 entities not established in or employed by the Office of the Public  
24 Defender designated to provide protection and advocacy services to  
25 indigent mental hospital admittees or persons with a developmental  
26 disability as the term is defined in section 3 of P.L.1977, c.82  
27 (C.30:6D-3).

28 "State" shall mean the State and any office, department, division,  
29 bureau, board, commission or agency of the State, but shall not  
30 include any such entity which is statutorily authorized to sue and be  
31 sued. "State" also means the Palisades Interstate Park Commission,  
32 but only with respect to employees, property and activities within the  
33 State of New Jersey.

34 "Statute" means an act adopted by the Legislature of this State or  
35 by the Congress of the United States.

36 (cf: P.L.1995, c.383, s.4)

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38 5. This act shall take effect on the 30th day following enactment.  
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Provides workers' compensation coverage for certain DEP volunteers.