

ASSEMBLY, No. 1347

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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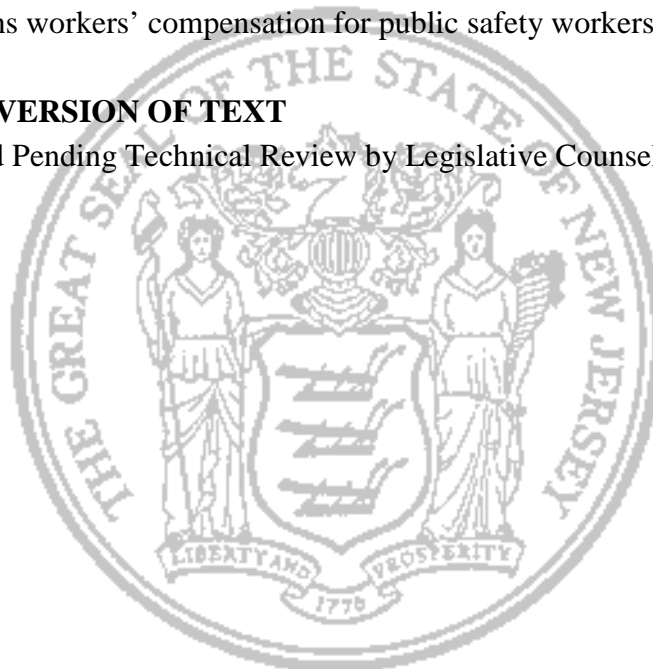
**Assemblymen Diegnan, Giblin, Assemblywoman Quijano, Assemblymen
Eustace, DeAngelo, Garcia, Benson and Assemblywoman Jimenez**

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: 10/28/2014)

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;

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.

46
47 3. For the purposes of this act:

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

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

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

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

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

44

45 4. There shall be a presumption that death, injury and
46 disability, including disability arising from post traumatic stress
47 disorder, and all treatment, including psychological and social
48 counseling and care, are compensable for the purposes of chapter 15

1 of Title 34 of the Revised Statutes if the death, injury or disability
2 arises from the physical or psychological impact of stress or injury
3 experienced by a public safety worker engaged in a response to a
4 terrorist attack, epidemic, or other catastrophic emergency, whether
5 or not a state of emergency was declared, in which the worker is
6 exposed to pathogens or biological toxins used in, or related to,
7 biological warfare or epidemics, hazardous chemicals or materials
8 used in, or related to, chemical warfare, or cancer-causing radiation
9 or radioactive substances, or witnesses death and suffering of a
10 magnitude sufficient to cause significant psychological trauma,
11 whether or not the catastrophic emergency was caused by terrorist
12 attack. This presumption may be rebutted by clear and convincing
13 proof that the death or disability was not linked to that physical or
14 psychological impact. The employer may require the worker to
15 undergo, at the expense of the employer, reasonable testing,
16 evaluation and monitoring of health conditions of the worker which
17 is relevant to determining whether the physical or psychological
18 impact is linked to the death, injury or disability, but the
19 presumption of compensability shall not be adversely affected by
20 any failure of the employer to require such testing, evaluation or
21 monitoring. Each employer of public safety workers who are
22 expected to respond to terrorist attacks or catastrophic emergencies
23 shall have programs in place to provide needed psychological and
24 social counseling and care for the workers during and after the
25 incidents or emergencies.

26
27 5. If in the course of a public safety worker's employment, the
28 worker is:

29 a. exposed to the excretions, secretions, blood or other bodily
30 fluids of one or more other individuals or is otherwise subjected to a
31 potential exposure, by the other individual or individuals, including
32 airborne exposure, to a serious communicable disease and any one
33 of the other individuals is diagnosed with a serious communicable
34 disease, has symptoms consistent with the serious communicable
35 disease, or is otherwise determined to be infected with or at
36 significant risk of contracting the serious communicable disease; or

37 b. exposed to any pathogen or biological toxins used in, or
38 related to, biological warfare or epidemics, including airborne
39 exposure, then all care or treatment of the public safety worker,
40 including testing, diagnosis, surveillance or other services needed to
41 ascertain whether the public safety worker contracted a serious
42 communicable disease and any related monitoring of the workers'
43 condition, and all time during which the public safety worker is
44 unable to work while receiving the care or treatment, shall be
45 compensable under the provisions of R.S.34:15-1 et seq., even if,
46 after the care or treatment, it is ascertained that the public safety
47 worker did not contract a serious communicable disease. If it is
48 ascertained that the public safety worker has contracted a serious

1 communicable disease or related illness under the circumstances set
2 forth in this section, there shall be a presumption that any injury,
3 disability, chronic or corollary illness or death of the public safety
4 worker caused by, attributable to, or attendant to the disease is
5 compensable under the provisions of R.S.34:15-1 et seq., but this
6 presumption may be rebutted by clear and convincing proof that the
7 exposure is not linked to the occurrence of the disease. The
8 employer may require the worker to undergo, at the expense of the
9 employer, reasonable testing, evaluation and monitoring of health
10 conditions of the worker which is relevant to determining whether
11 the exposure is linked to the occurrence of the disease, but the
12 presumption of compensability shall not be adversely affected by
13 any failure of the employer to require such testing, evaluation or
14 monitoring.

15

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

36

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

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

16

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

33

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

43

44 10. This act shall take effect immediately.

STATEMENT

This bill creates a rebuttable presumption of workers' compensation coverage for any death or disability, including post traumatic stress disorder, if the death or disability arises from the physical or psychological impact of stress or injury experienced by a public safety worker engaged in response to a terrorist attack, epidemic, or other catastrophic emergency, in which the worker is exposed to pathogens or biological toxins from biological warfare or epidemics, hazardous chemicals used in, or related to, chemical warfare, or cancer-causing radiation or radioactive substances, or witnesses death and suffering of a magnitude sufficient to cause significant psychological trauma. The bill requires employers of public safety workers expected to respond to terrorist attacks or catastrophic emergencies to have programs to provide needed psychological and social counseling for the workers during and after the incidents or emergencies.

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 relate to threatened or potential bioterrorism or epidemic as part of a 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.

1 In the case of any firefighter with five or more years of service,
2 due to the extremely high likelihood that such a firefighter will be
3 repeatedly exposed to smoke and other carcinogens, the bill creates
4 a rebuttable presumption that if the firefighter suffers an injury,
5 illness or death which may be caused by cancer, that the cancer is a
6 compensable occupational disease.

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

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