

[First Reprint]

ASSEMBLY, No. 1347

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

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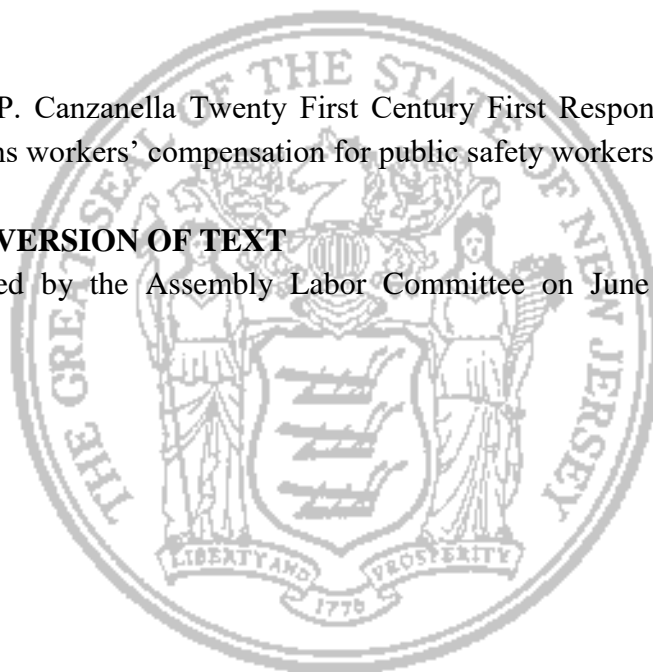
Assemblymen Diegnan, Giblin, Assemblywoman Quijano, Assemblymen Eustace, DeAngelo, Garcia, Benson, Assemblywoman Jimenez and Assemblyman Caputo

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on June 4, 2015, with amendments.



(Sponsorship Updated As Of: 11/10/2015)

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

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 ALA committee amendments adopted June 4, 2015.

1 sacrifices they and their families make for the safety and wellbeing
2 of the citizens of this State and the nation.

3
4 3. For the purposes of this act:

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

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

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

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

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

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

30
31 ¹[5.] 4.¹ If in the course of a public safety worker's employment,
32 the worker is:

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

41 b. exposed to any pathogen or biological toxins used in, or
42 related to, biological warfare or epidemics, including airborne
43 exposure, then all care or treatment of the public safety worker,
44 including testing, diagnosis, surveillance or other services needed to
45 ascertain whether the public safety worker contracted a serious
46 communicable disease and any related monitoring of the workers'
47 condition, and all time during which the public safety worker is

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

20
21 **‘[6.] 5.’** Any injury, illness or death of any employee,
22 including a public safety worker, resulting from the administration
23 to the employee of a vaccine including, but not limited to, smallpox
24 vaccine, to prepare for, or respond to, any actual, threatened, or
25 potential bioterrorism or epidemic, as part of an inoculation
26 program in connection with the employee’s employment or in
27 connection with any governmental program or recommendation for
28 the inoculation of workers in the employee’s occupation,
29 geographical area, or other category that includes the employee, or
30 resulting from the transmission of disease from another employee or
31 member of the public inoculated under the program, is deemed to
32 arise out of and in the course of the employment and all care or
33 treatment of the employee, including testing, diagnosis, surveillance
34 and monitoring of the employee’s condition, and all time during
35 which the employee is unable to work while receiving the care or
36 treatment, is compensable under the provisions of R.S.34:15-1 et
37 seq. This section shall not be regarded as authorizing any
38 requirement that employees participate in an inoculation program or
39 as diminishing any requirement of law that an inoculation program
40 be voluntary.

41
42 **‘[7.] 6.’** Any injury, illness or death of a public safety worker
43 which may be caused by exposure to a known carcinogen, cancer-
44 causing radiation or a radioactive substance, including cancer and
45 damage to reproductive organs, shall be presumed to be
46 compensable under the provisions of R.S.34:15-1 et seq., if the
47 worker demonstrates that he was exposed, due to fire, explosion,

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

22
23 ¹**[8.] 7.**¹ Any injury, illness or death of a firefighter which
24 may be caused by cancer, including leukemia, shall be presumed to
25 be an occupational disease compensable under the provisions of
26 R.S.34:15-1 et seq., if the firefighter has completed not less than
27 ¹**[five] seven**¹ years of service as a firefighter. This presumption
28 may be rebutted by clear and convincing evidence that the
29 occupational disease did not arise out of and in the course of the
30 employment. The employer may require the firefighter to undergo,
31 at the expense of the employer, reasonable testing, evaluation and
32 monitoring of health conditions of the firefighter which is relevant
33 to determining whether the occupational disease arose out of and in
34 the course of the employment, but the presumption of
35 compensability shall not be adversely affected by any failure of the
36 employer to require such testing, evaluation or monitoring. A
37 firefighter with less than ¹**[five] seven**¹ years of service as a
38 firefighter shall be subject to the provisions of section ¹**[7] 6**¹ of
39 this act.

40
41 ¹**[9.] 8.**¹ This act is intended to affirm certain rights of public
42 safety workers and other employees under the circumstances
43 specified in this act with respect to compensation provided pursuant
44 to R.S.34:15-1 et seq. and shall not be construed as reducing,
45 limiting or curtailing any rights of any other worker or employee to
46 compensation pursuant to R.S.34:15-1 et seq. or of any worker with
47 respect to any claim for compensation pursuant to R.S.34:15-1 et

1 seq., including a claim initiated prior to the effective date of this
2 act.

3

4 ¹**10.1** 9.1 This act shall take effect immediately.