

P.L. 2020, CHAPTER 84, *approved September 14, 2020*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 2380

1 AN ACT concerning essential employees contracting coronavirus
2 disease 2019 and supplementing Title 34 of the Revised Statutes.

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

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7 1. As used in this act:

8 “Essential employee” means an employee in the public or private
9 sector who, during a state of emergency:

10 (1) is a public safety worker or first responder, including any
11 fire, police or other emergency responders;

12 (2) is involved in providing medical and other healthcare
13 services, emergency transportation, social services, and other care
14 services, including services provided in health care facilities,
15 residential facilities, or homes;

16 (3) performs functions which involve physical proximity to
17 members of the public and are essential to the public's health,
18 safety, and welfare, including transportation services, hotel and
19 other residential services, financial services, and the production,
20 preparation, storage, sale, and distribution of essential goods such
21 as food, beverages, medicine, fuel, and supplies for conducting
22 essential business and work at home; or

23 (4) is any other employee deemed an essential employee by the
24 public authority declaring the state of emergency.

25 ¹An employee who is an employee of the State who is offered
26 the option of working at home but has refused that option shall not
27 be regarded as an essential employee.¹

28 “Health care facility” means any non-federal institution, building
29 or agency, or portion thereof, whether public or private, for profit or
30 nonprofit, that is used, operated or designed to provide health
31 services, medical or dental treatment or nursing, rehabilitative, or
32 preventive care to any person. Health care facility includes, but is
33 not limited to: an ambulatory surgical facility, home health agency,
34 hospice, hospital, infirmary, intermediate care facility, dialysis
35 center, long-term care facility, medical assistance facility, mental
36 health center, paid and volunteer emergency medical services,

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 July 27, 2020.

1 outpatient facility, public health center, rehabilitation facility,
2 residential treatment facility, skilled nursing facility, and adult day
3 care center. Health care facility also includes, but is not limited to,
4 the following related property when used for or in connection with
5 the foregoing: a laboratory, research facility, pharmacy, laundry
6 facility, health personnel training and lodging facility, patient, guest
7 and health personnel food service facility, and the portion of an
8 office or office building used by persons engaged in health care
9 professions or services.

10 "Health care worker" means an individual employed by a health
11 care facility.

12 "Public safety worker" includes a member, employee, or officer
13 of a paid, partially-paid, or volunteer fire or police department,
14 force, company or district, including the State Police, a Community
15 Emergency Response Team approved by the New Jersey Office of
16 Emergency Management, or a correctional facility, or a basic or
17 advanced medical technician of a first aid or rescue squad, or any
18 other nurse, basic or advanced medical technician.

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20 2. If, during the public health emergency declared by
21 ¹~~Executive Order 103 of 2020 as extended by subsequent~~
22 ~~executive orders~~ an executive order of the Governor and any
23 extension of the order¹, an individual contracts coronavirus disease
24 2019 during a time period in which the individual is working in a
25 place of employment other than the individual's own residence as a
26 health care worker, public safety worker, or other essential
27 employee, there shall be a rebuttable presumption that the
28 contraction of the disease is work-related and fully compensable for
29 the purposes of benefits provided under R.S.34:15-1 et seq.,
30 ordinary and accidental disability retirement, and any other benefits
31 provided by law to individuals suffering injury or illness through
32 the course of their employment. This prima facie presumption may
33 be rebutted by a preponderance of the evidence showing that the
34 worker was not exposed to the disease while working in the place of
35 employment other than the individual's own residence.

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37 3. Any workers' compensation claims paid ¹~~as a result of the~~
38 ~~rebuttable presumption provided for in~~ according to section 2 of¹
39 ~~this act shall not be considered in calculating an employer's~~
40 ¹~~experience modifier rate or otherwise affect an employer's~~
41 ~~insurance premium rate for the employer's workers' compensation~~
42 ~~policy~~ Experience Modification Factor, pursuant to the New Jersey
43 Workers' Compensation and Employers Liability and Insurance
44 Manual administered by the Compensation Rating and Inspection
45 Bureau established by section 2 of P.L.1995, c.393 (C.34:15-89.1)
46 and section 1 of P.L.2008, c.97 (C. 34:15-90.1)¹.

1 4. This act is intended to affirm certain rights of essential
2 employees under the circumstances specified in this act, and shall
3 not be construed as reducing, limiting or curtailing any rights of any
4 worker or employee to benefits provided by law.

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6 5. This act shall take effect immediately and shall be
7 retroactive to March 9, 2020.

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12 Concerns employment benefits and coronavirus disease 2019
13 infections contracted by essential employees.