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 Senate Labor Committee on May 9, 2013, with amendments.

AN ACT concerning workers’ compensation, public safety workers and other employees and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

1. This act shall be known and may be cited as the “Thomas P. Canzanella Twenty First Century First Responders Protection Act.”

2. The Legislature hereby finds and declares:
a. Since the terrorist attacks of September 11, 2001, and the subsequent discovery of terrorist use of anthrax against American citizens that year, millions of dollars of State and federal funds have been spent, and many thousands of man-hours dedicated, to train and equip public safety workers in New Jersey regarding the management of terrorist attacks and other man-made or natural disasters;

b. Public safety workers are required by necessity to take great personal risks of serious injury, illness and death in their duties to protect the people of New Jersey from the dangers of catastrophic emergencies, including, but in no way limited to, terrorist attacks and epidemics;

c. The risks of exposure to carcinogens, communicable diseases, radiation and related hazards to health, already especially high for fire, police, emergency, medical and other public safety workers, is further increased by the duties of such workers in response to catastrophic emergencies, epidemics, and terrorist attacks which may involve materials related to biological or chemical warfare, or industrial chemicals or other hazardous materials released in connection with terrorist attacks against military, governmental, industrial, infrastructural, and other vulnerable facilities; and

d. Many of the severe, painful and even fatal diseases and health conditions which afflict these workers because of those exposures and duties, such as cancer, may take long periods of time to manifest themselves;

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

3. For the purposes of this act:

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

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

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

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

"Serious communicable disease" means any disease which is characterized by the interruption, cessation or
disorder of body functions, systems or organs which may result, if not treated, in disability, chronic illness or
death, and is transmittable by association with, or proximity to, sick, infected or colonized individuals,
including airborne transmission, or is transmittable by 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 Senior Services], and also includes diseases caused by antibiotic resistant organisms.

4. There shall be a presumption that death, injury and disability, including disability arising from post
traumatic stress disorder, and all treatment, including psychological and social counseling and care, are
compensable for the purposes of chapter 15 of Title 34 of the Revised Statutes if the death, injury or disability
arises from the physical or psychological impact of stress or injury experienced by a public safety worker
engaged in a response to a terrorist attack, epidemic, or other catastrophic emergency, whether or not a state of
emergency was declared, in which the worker is exposed to pathogens or biological toxins used in, or related to,
biological warfare or epidemics, hazardous chemicals or materials 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, whether or not the catastrophic emergency was caused by
terrorist attack. This presumption may be rebutted by clear and convincing proof that the death or disability
was not linked to that physical or psychological impact. 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 physical or psychological impact is linked to the death, injury or
disability, but the presumption of compensability shall not be adversely affected by any failure of the employer
to require such testing, evaluation or monitoring. Each employer of public safety workers who are expected
to respond to terrorist attacks or catastrophic emergencies shall have programs in place to provide needed
psychological and social counseling and care for the workers during and after the incidents or emergencies.

5. If in the course of a public safety worker’s employment, the worker is:
   a. exposed to 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, has symptoms consistent with the serious communicable disease, or is otherwise
determined to be infected with or at significant risk of contracting the serious communicable disease; or
   b. exposed to any pathogen or biological toxins 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 workers’ 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. If it is ascertained that the public safety worker has contracted a serious communicable disease or related illness under the circumstances set forth in 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., but this presumption may be rebutted by clear and convincing proof 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.

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

7. Any injury, illness or death of a public safety worker which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance, including cancer and damage to reproductive organs, shall be presumed to be compensable under the provisions of R.S.34:15-1 et seq., if the worker demonstrates that he was exposed, due to fire, explosion, spill or other means, to a known carcinogen, cancer-causing radiation or radioactive substances in the course of the worker’s employment as a public safety worker. This presumption may be rebutted by clear and convincing proof that the exposure is not linked to the injury, illness or death. The employer of the public safety worker 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, but the presumption of compensability shall not be adversely affected by any failure of the employer to require such testing, evaluation or monitoring. The employer shall maintain records regarding any instance in which any public safety worker in its employ was deployed to a facility or location where the presence of one or more substances which are known carcinogens is indicated in documents provided to local fire or police departments pursuant to the requirements of section 7 of P.L.1983, c.315 (C.34:5A-7) and where fire, explosions, spills or other events occurred which could result in exposure to those carcinogens. The records
shall include the identity of each deployed public safety worker and each worker shall be provided notice of the records.

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

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

10. This act shall take effect immediately.