

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 432 Session of 2019

INTRODUCED BY BARRAR, SAINATO, BIZZARRO, BOYLE, BURNS, COMMITTA, DAVIDSON, A. DAVIS, T. DAVIS, DEASY, DELLOSO, DeLUCA, DERMODY, DiGIROLAMO, DONATUCCI, DRISCOLL, ECKER, FARRY, FITZGERALD, FRANKEL, GAINNEY, GAYDOS, HARKINS, HARRIS, HILL-EVANS, INNAMORATO, ISAACSON, KORTZ, KULIK, MADDEN, MARKOSEK, MARSHALL, MATZIE, McNEILL, MERSKI, D. MILLER, MULLINS, MURT, NEILSON, O'MARA, POLINCHOCK, RAVENSTAHL, READSHAW, RYAN, SAPPEY, SCHLOSSBERG, SCHWEYER, SNYDER, SOLOMON, STAATS, WARREN, WHITE, SCHMITT, ZABEL, FLYNN, ULLMAN, TOEPEL, HOHENSTEIN, KRUEGER, KENYATTA, GABLER, CALTAGIRONE, CIRESI, CONKLIN, PASHINSKI, DOWLING, RADER, MEHAFFIE, WEBSTER, STEPHENS, TOOHIL, McCARTER, HERSHEY, MIHALEK, RIGBY, OTTEN, LONGIETTI, BERNSTINE, WALSH, STRUZZI, WHEATLEY, GOODMAN, THOMAS AND WILLIAMS, FEBRUARY 11, 2019

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 2019

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled "An
2 act defining the liability of an employer to pay damages for
3 injuries received by an employe in the course of employment;
4 establishing an elective schedule of compensation; providing
5 procedure for the determination of liability and compensation
6 thereunder; and prescribing penalties," in interpretation and
7 definitions, further providing for the definition of <--
8 "occupational disease" DEFINITIONS; and, in liability and <--
9 compensation, further providing for compensation for post-
10 traumatic stress injury.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~Section 1. Section 108 of the act of June 2, 1915 (P.L.736, <--~~
14 ~~No.338), known as the Workers' Compensation Act, is amended by~~
15 ~~adding a clause to read:~~

1       ~~Section 108. The term "occupational disease," as used in~~  
2 ~~this act, shall mean only the following diseases.~~

3       ~~\* \* \*~~

4       ~~(s) Post traumatic stress injury, that is suffered by a~~  
5 ~~professional and volunteer firefighter, volunteer ambulance~~  
6 ~~corps personnel, volunteer rescue and lifesaving squad~~  
7 ~~personnel, emergency medical services personnel and paramedics,~~  
8 ~~a Pennsylvania State Police officer and a police officer~~  
9 ~~requiring certification under 53 Pa.C.S. Ch. 21 (relating to~~  
10 ~~employees), and caused by exposure to a traumatic event arising~~  
11 ~~in the course of the individual's employment or, after four~~  
12 ~~years or more of service, is caused by and related to the~~  
13 ~~cumulative effect of psychological stress in the course of the~~  
14 ~~individual's employment for the benefit and safety of the~~  
15 ~~public.~~

16       SECTION 1. SECTION 109 OF THE ACT OF JUNE 2, 1915 (P.L.736, <--  
17 NO.338), KNOWN AS THE WORKERS' COMPENSATION ACT, IS AMENDED BY  
18 ADDING DEFINITIONS TO READ:

19       SECTION 109. IN ADDITION TO THE DEFINITIONS SET FORTH IN  
20 THIS ARTICLE, THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS  
21 ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS  
22 THE CONTEXT CLEARLY INDICATES OTHERWISE:

23       ~~\* \* \*~~

24       ~~"CORRECTIONS OFFICER" MEANS A FULL-TIME EMPLOYEE ASSIGNED TO~~  
25 ~~THE DEPARTMENT OF CORRECTIONS WHOSE PRINCIPAL DUTY IS THE CARE,~~  
26 ~~CUSTODY AND CONTROL OF INMATES OF A PENAL OR CORRECTIONAL~~  
27 ~~INSTITUTION OPERATED BY THE DEPARTMENT OF CORRECTIONS.~~

28       ~~\* \* \*~~

29       ~~"POST-TRAUMATIC STRESS INJURY" SHALL MEAN A POST-TRAUMATIC~~  
30 ~~STRESS DISORDER AS DEFINED BY A MENTAL DISORDER CHARACTERIZED BY~~

1 DIRECT EXPOSURE TO A TRAUMATIC EVENT AS IDENTIFIED BY THE  
2 AMERICAN PSYCHIATRIC ASSOCIATION AND DOCUMENTED IN THE AMERICAN  
3 PSYCHIATRIC ASSOCIATION'S DIAGNOSTIC AND STATISTICAL MANUAL OF  
4 MENTAL DISORDERS, 5TH EDITION.

5 \* \* \*

6 "TELECOMMUNICATOR" MEANS AN INDIVIDUAL EMPLOYED BY A PUBLIC  
7 SAFETY ANSWERING POINT WHOSE PRIMARY RESPONSIBILITY IS TO  
8 RECEIVE, PROCESS, TRANSMIT OR DISPATCH EMERGENCY AND  
9 NONEMERGENCY CALLS FOR SERVICE FOR EMERGENCY MEDICAL, FIRE AND  
10 RESCUE, LAW ENFORCEMENT OR OTHER PUBLIC SAFETY SERVICES VIA  
11 TELEPHONE, RADIO OR OTHER COMMUNICATION DEVICE. THE TERM SHALL  
12 INCLUDE, BUT NOT BE LIMITED TO, CALL TAKERS, EMERGENCY  
13 DISPATCHERS AND SUPERVISORS.

14 \* \* \*

15 Section 2. Section 301 of the act is amended by adding a  
16 subsection to read:

17 Section 301. \* \* \*

18 (g) (1) A post-traumatic stress injury suffered by a <--  
19 professional and volunteer firefighter, volunteer ambulance  
20 corps personnel, volunteer rescue and lifesaving squad  
21 personnel, emergency medical services personnel and paramedics,  
22 TELECOMMUNICATOR, CORRECTIONS OFFICER, a Pennsylvania State <--  
23 Police officer and a police officer requiring certification  
24 under 53 Pa.C.S. Ch. 21 (relating to employees) shall be  
25 established by a preponderance of the SUBSTANTIAL COMPETENT <--  
26 evidence that the injury WAS CAUSED BY A DIRECT EXPOSURE TO A <--  
27 NORMAL OR ABNORMAL WORKING CONDITION AND was received while in  
28 the course of the individual's employment.

29 (2) A POST-TRAUMATIC STRESS INJURY SUFFERED BY AN INDIVIDUAL <--  
30 UNDER PARAGRAPH (1) SHALL BE BASED ON AN EXAMINATION AND

1 DIAGNOSIS BY A PSYCHOLOGIST OR PSYCHIATRIST DULY LICENSED UNDER  
2 THE LAWS OF THIS COMMONWEALTH.

3 (3) FOR PURPOSES OF THIS SUBSECTION, A POST-TRAUMATIC STRESS  
4 INJURY SUFFERED AS A RESULT OF AN EMPLOYMENT ACTION, INCLUDING,  
5 BUT NOT LIMITED TO, DISCIPLINARY ACTION, JOB OR PERFORMANCE  
6 EVALUATION, JOB TRANSFERS OR EMPLOYMENT TERMINATION, SHALL NOT  
7 BE COMPENSABLE UNLESS IT CAN BE ESTABLISHED BY SUBSTANTIAL  
8 COMPETENT EVIDENCE THAT THE UNDERLYING CAUSE OF THE EMPLOYMENT  
9 ACTION IS DIRECTLY ATTRIBUTABLE TO THE INJURY AS PROVIDED FOR  
10 UNDER THIS SUBSECTION.

11 Section 3. The AMENDMENT OR addition of sections ~~108(s)~~ 109 <--  
12 and 301(g) of the act shall apply to claims filed on or after  
13 the effective date of this section.

14 Section 4. This act shall take effect ~~in 60 days.~~ AS <--  
15 FOLLOWS:

16 (1) THE AMENDMENT OR ADDITION OF SECTIONS 109 AND 301(G)  
17 OF THE ACT SHALL TAKE EFFECT ONE YEAR AFTER THE EFFECTIVE  
18 DATE OF THIS SECTION.

19 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
20 IMMEDIATELY.