

**WORKERS' COMPENSATION ACT - FURTHER DEFINING THE DEFINITION OF
"EMPLOYEE" AND MAKING EDITORIAL CHANGES**

Act of Nov. 3, 2020, P.L. 1080, No. 108

Cl. 77

Session of 2020

No. 2020-108

SB 94

AN ACT

Amending the act of June 2, 1915 (P.L.736, No.338), entitled "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," in additional coverages, further providing for the definition of "employe"; and making editorial changes.

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

Section 1. Section 601(a) and (c) of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, are amended and the section is amended by adding subsections to read:

Section 601. (a) In addition to those persons included within the definition of the word "employe" as defined in section 104, "employe" shall also include:

(1) members of volunteer fire departments or volunteer fire companies, including any paid fireman who is a member of a volunteer fire company and performs the services of a volunteer fireman during off-duty hours, who shall be entitled to receive compensation in case of injuries received while actively engaged as firemen or while going to or returning from a fire which the fire company or fire department attended including travel from and the direct return to a fireman's home, place of business or other place where he shall have been when he received the call or alarm or while participating in instruction fire drills in which the fire department or fire company shall have participated or while repairing or doing other work about or on the fire apparatus or buildings and grounds of the fire company or fire department upon the authorization of the chief of the fire company or fire department or other person in charge or while answering any emergency calls for any purpose or while riding upon the fire apparatus which is owned or used by the fire company or fire department or while performing any other duties of such fire company or fire department as authorized by the municipality or while performing duties imposed by section 15, act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act;

(2) all members of volunteer ambulance corps of the various municipalities who shall be and are hereby declared to be employes of such municipality for the purposes of this act who shall be entitled to receive compensation in the case of injuries received while actually engaged as ambulance corpsmen or while going to or returning from any fire, accident, or other emergency which such volunteer ambulance corps shall attend including travel from and the direct return to a corpsman's home, place of business or other place where he shall have been when he received the call or alarm; or while participating in

ambulance corps of which they are members; or while repairing or doing other work about or on the ambulance apparatus or buildings and grounds of such ambulance corps upon the authorization of the corps president or other person in charge; or while answering any emergency call for any purpose or while riding in or upon the ambulance apparatus owned by the ambulance corps of which they are members at any time or while performing any other duties of such ambulance corps as are authorized by the municipality;

(3) **officers, directors, rescue and lifesaving squad members or any other** members of volunteer rescue and lifesaving squads of the various municipalities who shall be and are hereby declared to be employes of such municipalities for the purposes of this act and who shall be entitled to receive compensation in the case of injuries received while actually engaged as a rescue and lifesaving squad member attending to any emergency to which that squad has been called or responded including travel from and the direct return to a squad person's home, place of business or other place where he shall have been when he received the call or alarm or while participating in rescue and lifesaving drills in which the squad is participating; while repairing or doing other work about or on the apparatus, buildings and grounds of such rescue and lifesaving squad upon the authorization of the chief or other person in charge; or while riding in or upon the apparatus of the rescue and lifesaving squad and at any time while performing any other duties authorized by the municipality;

(4) volunteer members of the State Parks and Forest Program, who shall be declared to be employes of the Commonwealth for the purposes of this act, shall be entitled to receive compensation in case of injuries received while actually engaged in performing any duties in connection with the volunteers in the State Parks and Forest Program;

(5) Pennsylvania Deputy Game Protectors are hereby defined to be employes of the Commonwealth for all the purposes of this act and shall be entitled to receive compensation in case of injuries received while actually engaged in the performance of duties as a Pennsylvania Deputy Game Protector whether employed by the **Pennsylvania** Game Commission or otherwise;

(6) all special waterways patrolmen are hereby declared to be employes of the Commonwealth for all purposes of this act and shall be entitled to receive compensation in case of injuries received while actually engaged in the performance of their duties as special waterways patrolmen whether actually receiving compensation from the Pennsylvania Fish **and Boat** Commission or not;

(7) all forest firefighters are hereby declared to be employes of the Commonwealth for the purposes of this act and shall be entitled to receive compensation in case of injuries received while actually engaged in the performance of their duties as forest firefighters or forest fire protection employes which duties shall include participation in the extinguishing of forest fires or traveling to and from forest fires or while performing any other duties relating to forest fire protection as authorized by the Secretary of [Environmental Resources] **Conservation and Natural Resources** or his designee.

(8) All volunteer members of hazardous materials response teams who shall be and are hereby declared to be employes of the Commonwealth agency, county, municipality, regional hazardous materials organization, volunteer service organization, corporation, partnership or of any other entity which organized the hazardous materials response team for the

primary purpose of responding to the release of a hazardous material. All such volunteer members of hazardous materials response teams shall be entitled, under this act, to receive compensation in the case of injuries received while actively engaged as hazardous materials response team members or while going to or returning from any emergency response incident or accident which the hazardous materials response team attended, including travel from and direct return to a team member's home, place of business or other place where the member shall have been when the member received the call or alarm to respond to the emergency incident or accident; or while participating in hazardous materials response drills or exercises in which the hazardous materials response team is participating; or while repairing or doing other work about or on the hazardous materials response team apparatus or buildings and grounds of the hazardous materials response team upon the authorization of the chief of the hazardous materials response team or other person in charge; or while answering any emergency calls for any purpose; or while riding upon the hazardous materials response team apparatus which is owned or used by the hazardous materials response team in responding to an emergency or drill or with the express permission of the chief of the team; or while performing any other duties of such hazardous materials response team as authorized by the Commonwealth agency, county, municipality, regional hazardous materials organization, volunteer service organization, corporation, partnership or any other entity which duly organized the hazardous materials response team.

(9) All local coordinators of emergency management, as defined in 35 Pa.C.S. § 7502 (relating to local coordinator of emergency management), of the various municipalities who shall be and are hereby declared to be employes of such municipalities for the purposes of this act and who shall be entitled to receive compensation in the case of injuries received while actually engaged as local coordinator of emergency management at any emergency to which he has been called or responded, including travel from and the direct return to his home, place of business or other place where he shall have been when he received the call or alarm or while performing any other duties authorized by the municipality.

(10) An employe who, while in the course and scope of his employment, goes to the aid of a person and suffers injury or death as a direct result of any of the following:

(i) Preventing the commission of a crime, lawfully apprehending a person reasonably suspected of having committed a crime or aiding the victim of a crime. For purposes of this clause, the terms "crime" and "victim" shall have the same meanings as given to them in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the "Crime Victims Act."

(ii) Rendering emergency care, first aid or rescue at the scene of an emergency.

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(c) Whenever any member of a volunteer fire company, volunteer fire department, volunteer ambulance corps, or rescue and lifesaving squad is injured in the performance of duties in State Parks and State Forest Land, they shall be deemed to be an employe of the Department of [Environmental Resources] **Conservation and Natural Resources.**

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(e) Whenever members of volunteer fire departments or volunteer fire companies, members of volunteer ambulance corps or rescue and lifesaving squad members are injured in the

performance of duties on State game land, the members shall be deemed to be employes of the Pennsylvania Game Commission.

(f) The term "members of volunteer fire departments or volunteer fire companies" when used in this article shall mean any of the following:

(1) An active volunteer firefighter who responds to emergency calls.

(2) An individual appointed as special fire police under 35 Pa.C.S. Ch. 74 Subch. D (relating to special fire police).

(3) An officer or director of a volunteer fire department or volunteer fire company.

(4) A participating member of a volunteer fire department or volunteer fire company who provides necessary operational support to the volunteer fire department or volunteer fire company but does not respond to emergency calls. Operational support includes maintaining the station and equipment, acting as trustee, organizing fundraisers, providing information technology support and assisting with recruitment and other administrative tasks, if the operational support activity is conducted on a regular basis for the benefit of a volunteer fire department or volunteer fire company as approved at the beginning of each policy year by the authority, organization or municipality purchasing workers' compensation insurance for the volunteer fire department or volunteer fire company.

The term does not include a social member of a volunteer fire department or volunteer fire company.

(g) The term "members of volunteer ambulance corps" when used in this article shall mean any of the following:

(1) An active volunteer ambulance corpsman who responds to emergency calls.

(2) An officer or director of a volunteer ambulance corps.

(3) A participating member of a volunteer ambulance corps who provides necessary operational support to the volunteer ambulance corps but does not respond to emergency calls. Operational support includes maintaining the station and equipment, acting as trustee, organizing fundraisers, providing information technology support and assisting with recruitment and other administrative tasks, if the operational support activity is conducted on a regular basis for the benefit of a volunteer ambulance corps.

The term does not include a social member of a volunteer ambulance corps.

(h) The term "social member" of a volunteer fire department, volunteer fire company or volunteer ambulance corps when used in this article shall mean a member of the organization whose class of membership is social in nature and is primarily intended to facilitate fraternization with other members of the organization or access to social amenities and social events offered by the organization, whether or not the member occasionally provides unpaid operational support to the organization.

Section 2. Within 90 days of the effective date of this act, the Pennsylvania Compensation Rating Bureau shall conduct a review to determine whether it will be necessary to modify the classification codes affected by the amendment of section 601 of the act. The Pennsylvania Compensation Rating Bureau may make modifications, create separate classifications or revise loss cost values at any time after the effective date of this act.

Section 3. The amendment of section 601 of the act shall not be construed to:

(1) Provide a presumption of occupational exposure to Hepatitis C under section 108(m.1) of the act to an individual who does not serve as any of the following at the time of infection:

(i) An active volunteer firefighter who responds to emergency calls.

(ii) An individual appointed as special fire police under 35 Pa.C.S. Ch. 74 Subch. D who responds to emergency calls.

(iii) An active volunteer ambulance corpsman who responds to emergency calls.

(iv) An active rescue and lifesaving squad member who responds to emergency calls.

(2) Provide compensation for cancer under section 108(r) of the act to an individual who:

(i) has not served as an active volunteer firefighter who responds to emergency calls; or

(ii) does not meet the criteria for compensation provided in section 301(f) of the act.

Section 4. This act shall take effect immediately.

APPROVED--The 3rd day of November, A.D. 2020.

TOM WOLF