

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 365 Session of 2023

INTRODUCED BY BARTOLOTTA, REGAN, TARTAGLIONE, STEFANO, YAW, PENNYCUICK, BAKER, COSTA, ROBINSON, KANE, L. WILLIAMS, CAPPELLETTI, DILLON AND MUTH, FEBRUARY 21, 2023

SENATOR ROBINSON, LABOR AND INDUSTRY, AS AMENDED, JUNE 27, 2023

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 definitions; and, in
8 liability and compensation, further providing for
9 compensation for post-traumatic stress injury. <--

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

12 Section 1. Section 109 of the act of June 2, 1915 (P.L.736,
13 No.338), known as the Workers' Compensation Act, is amended by
14 adding definitions to read:

15 Section 109. In addition to the definitions set forth in
16 this article, the following words and phrases when used in this
17 act shall have the meanings given to them in this section unless
18 the context clearly indicates otherwise:

19 * * *

20 ~~"First responder" means an individual who is a professional <--~~
21 ~~or volunteer firefighter, a member of a volunteer ambulance~~

1 ~~corps, a member of a volunteer rescue and lifesaving squad, an~~
2 ~~emergency medical services employee, a paramedic, a Pennsylvania~~
3 ~~State Police officer or a peace officer as defined in 18 Pa.C.S.~~
4 ~~§ 501 (relating to definitions).~~

5 "FIRST RESPONDER" MEANS ANY OF THE FOLLOWING PUBLIC SERVANTS: <--

6 (1) AN EMERGENCY MEDICAL SERVICES PROVIDER OR EMS PROVIDER,
7 AS DEFINED IN 35 PA.C.S. § 8103 (RELATING TO DEFINITIONS).

8 (2) AN ACTIVE VOLUNTEER, EMPLOYE OR MEMBER OF A FIRE COMPANY
9 AS DEFINED IN 35 PA.C.S. § 7802 (RELATING TO DEFINITIONS).

10 (3) A PENNSYLVANIA STATE POLICE OFFICER.

11 (4) A PEACE OFFICER AS DEFINED IN 18 PA.C.S. § 501 (RELATING
12 TO DEFINITIONS).

13 * * *

14 "Post-traumatic stress injury" shall have the meaning given
15 in 35 Pa.C.S. § 75A01 (relating to definitions).

16 * * *

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

19 Section 301. * * *

20 ~~(g) (1) A post traumatic stress injury suffered by a first <--~~
21 ~~responder shall be established by a preponderance of the~~
22 ~~evidence that the injury resulted from a normal or abnormal~~
23 ~~working condition and was sustained in the course and scope of~~
24 ~~the individual's employment as a first responder.~~

25 ~~(2) A post traumatic stress injury suffered by an individual~~
26 ~~under paragraph (1) shall be based on an examination and~~
27 ~~diagnosis by a psychologist or psychiatrist duly licensed under~~
28 ~~the laws of this Commonwealth.~~

29 (G) (1) A CLAIM FOR A POST-TRAUMATIC STRESS INJURY SUFFERED <--
30 BY A FIRST RESPONDER SHALL ESTABLISH THAT THE INJURY WAS

1 SUSTAINED IN THE COURSE AND SCOPE OF THE INDIVIDUAL'S EMPLOYMENT
2 AS A FIRST RESPONDER. A POST-TRAUMATIC STRESS INJURY SUFFERED BY
3 A FIRST RESPONDER SHALL NOT BE REQUIRED TO BE THE RESULT OF AN
4 ABNORMAL WORKING CONDITION TO BE A COMPENSABLE INJURY UNDER THIS
5 ACT.

6 (2) A POST-TRAUMATIC STRESS INJURY SUFFERED BY AN INDIVIDUAL
7 UNDER PARAGRAPH (1) SHALL BE BASED ON ASSESSMENT AND DIAGNOSIS
8 BY A LICENSED MEDICAL PROFESSIONAL OR A LICENSED MENTAL HEALTH
9 PROFESSIONAL WHOSE SCOPE OF PRACTICE INCLUDES EVALUATION,
10 ASSESSMENT AND DIAGNOSTIC PRIVILEGES SPECIFIED BY THE SCOPE OF
11 PRACTICE OF THE PROFESSION UNDER THE LAWS AND REGULATIONS OF
12 THIS COMMONWEALTH.

13 (3) A claim for a post-traumatic stress injury must be filed
14 within three years of the date of a diagnosis under paragraph
15 (2).

16 (4) When a post-traumatic stress injury is diagnosed after
17 the last date of employment, paragraph (1) shall not be
18 construed to prohibit a claim against the employer of the
19 claimant at the time of the direct exposure to the traumatic
20 event which caused the injury.

21 (5) For purposes of this subsection, a post-traumatic stress
22 injury suffered as a result of an employment action, including
23 disciplinary action, job or performance evaluation, job
24 transfers or employment termination, shall not be compensable.

25 Section 3. The amendment or addition of sections 109 and
26 301(g) of the act shall apply to claims filed on or after the
27 effective date of this section.

28 Section 4. This act shall take effect in 60 days.