

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1231 Session of  
2009

INTRODUCED BY MURPHY, CALTAGIRONE, ADOLPH, BARRAR, BELFANTI, BOYLE, BRADFORD, BRENNAN, BRIGGS, BROWN, CASORIO, COHEN, CRUZ, DALEY, DEASY, DeLUCA, DePASQUALE, FARRY, FLECK, FREEMAN, GALLOWAY, GEORGE, GIBBONS, GINGRICH, GOODMAN, GRUCELA, HALUSKA, HARKINS, HELM, HENNESSEY, HESS, HORNAMAN, HUTCHINSON, JOSEPHS, W. KELLER, KORTZ, KOTIK, KULA, LENTZ, LONGIETTI, MAHONEY, MANDERINO, MANN, MARKOSEK, MATZIE, McCALL, McGEEHAN, McILVAINE SMITH, MENSCH, MICOZZIE, D. O'BRIEN, M. O'BRIEN, O'NEILL, PETRARCA, PETRI, PHILLIPS, PYLE, READSHAW, REICHLEY, ROCK, SABATINA, SANTONI, SCAVELLO, SEIP, SHAPIRO, SIPTROTH, K. SMITH, SOLOBAY, SONNEY, STABACK, J. TAYLOR, WALKO, WATSON, YOUNGBLOOD, YUDICHAK, BEYER, MURT, DALLY, GEIST, VULAKOVICH, D. COSTA, GERGELY, P. COSTA, KESSLER, BURNS, BARBIN, HOUGHTON, BISHOP, DERMODY, FRANKEL, WAGNER, MIRABITO, SAINATO, HARHAI, PASHINSKI AND CAUSER, APRIL 7, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, AUGUST 5, 2009

## AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as  
2 reenacted and amended, "An act defining the liability of an  
3 employer to pay damages for injuries received by an employe  
4 in the course of employment; establishing an elective  
5 schedule of compensation; providing procedure for the  
6 determination of liability and compensation thereunder; and  
7 prescribing penalties," further defining "occupational  
8 disease"; and providing for cancer in the occupation of  
9 firefighter.

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

12 Section 1. Section 108 of the act of June 2, 1915 (P.L.736,  
13 No.338), known as the Workers' Compensation Act, reenacted and  
14 amended June 21, 1939 (P.L.520, No.281), is amended by adding a

1 clause to read:

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

4 \* \* \*

5 ~~(r) Cancer, resulting in either temporary or permanent total~~ ←  
6 ~~or partial disability or death, after four years or more of~~  
7 ~~service in firefighting for the benefit or safety of the public,~~  
8 ~~cancer affecting the skin or the central nervous, lymphatic,~~  
9 ~~digestive, hematological, urinary, skeletal, oral, breast,~~  
10 ~~testicular, genitourinary, liver or prostate systems, as well as~~  
11 ~~any condition of cancer that may result from exposure to heat or~~  
12 ~~radiation or to a known or suspected carcinogen as determined by~~  
13 ~~the International Agency for Research on Cancer, arising~~  
14 ~~directly out of the employment of any such firefighter.~~

15 (R) CANCER SUFFERED BY A FIREFIGHTER WHICH IS CAUSED BY ←  
16 EXPOSURE TO EITHER HEAT, GAS, RADIATION OR A KNOWN CARCINOGEN  
17 WHICH IS RECOGNIZED BY THE INTERNATIONAL AGENCY FOR RESEARCH ON  
18 CANCER WHICH IS REASONABLY LINKED TO THE CANCER.

19 Section 2. Section 301(c) of the act is amended by adding a ←  
20 ~~paragraph~~ AND THE SECTION IS AMENDED BY ADDING A SUBSECTION to ←  
21 read:

22 Section 301. \* \* \*

23 ~~(c) \* \* \*~~ ←

24 ~~(3) The limitations of paragraph (2) shall not apply in the~~  
25 ~~case of cancer in the occupation of firefighter. The employer~~  
26 ~~shall have the burden of proving that the firefighter's~~  
27 ~~occupation was not a major contributing cause of the~~  
28 ~~firefighter's cancer.~~

29 \* \* \*

30 (C) (1) THE TERMS "INJURY" AND "PERSONAL INJURY," AS USED ←

1 IN THIS ACT, SHALL BE CONSTRUED TO MEAN AN INJURY TO AN EMPLOYE,  
2 REGARDLESS OF HIS PREVIOUS PHYSICAL CONDITION, ARISING IN THE  
3 COURSE OF HIS EMPLOYMENT AND RELATED THERETO, AND SUCH DISEASE  
4 OR INFECTION AS NATURALLY RESULTS FROM THE INJURY OR IS  
5 AGGRAVATED, REACTIVATED OR ACCELERATED BY THE INJURY; AND  
6 WHEREVER DEATH IS MENTIONED AS A CAUSE FOR COMPENSATION UNDER  
7 THIS ACT, IT SHALL MEAN ONLY DEATH RESULTING FROM SUCH INJURY  
8 AND ITS RESULTANT EFFECTS, AND OCCURRING WITHIN THREE HUNDRED  
9 WEEKS AFTER THE INJURY. THE TERM "INJURY ARISING IN THE COURSE  
10 OF HIS EMPLOYMENT," AS USED IN THIS ARTICLE, SHALL NOT INCLUDE  
11 AN INJURY CAUSED BY AN ACT OF A THIRD PERSON INTENDED TO INJURE  
12 THE EMPLOYE BECAUSE OF REASONS PERSONAL TO HIM, AND NOT DIRECTED  
13 AGAINST HIM AS AN EMPLOYE OR BECAUSE OF HIS EMPLOYMENT; NOR  
14 SHALL IT INCLUDE INJURIES SUSTAINED WHILE THE EMPLOYE IS  
15 OPERATING A MOTOR VEHICLE PROVIDED BY THE EMPLOYER IF THE  
16 EMPLOYE IS NOT OTHERWISE IN THE COURSE OF EMPLOYMENT AT THE TIME  
17 OF INJURY; BUT SHALL INCLUDE ALL OTHER INJURIES SUSTAINED WHILE  
18 THE EMPLOYE IS ACTUALLY ENGAGED IN THE FURTHERANCE OF THE  
19 BUSINESS OR AFFAIRS OF THE EMPLOYER, WHETHER UPON THE EMPLOYER'S  
20 PREMISES OR ELSEWHERE, AND SHALL INCLUDE ALL INJURIES CAUSED BY  
21 THE CONDITION OF THE PREMISES OR BY THE OPERATION OF THE  
22 EMPLOYER'S BUSINESS OR AFFAIRS THEREON, SUSTAINED BY THE  
23 EMPLOYE, WHO, THOUGH NOT SO ENGAGED, IS INJURED UPON THE  
24 PREMISES OCCUPIED BY OR UNDER THE CONTROL OF THE EMPLOYER, OR  
25 UPON WHICH THE EMPLOYER'S BUSINESS OR AFFAIRS ARE BEING CARRIED  
26 ON, THE EMPLOYE'S PRESENCE THEREON BEING REQUIRED BY THE NATURE  
27 OF HIS EMPLOYMENT.

28 (2) THE TERMS "INJURY," "PERSONAL INJURY," AND "INJURY  
29 ARISING IN THE COURSE OF HIS EMPLOYMENT," AS USED IN THIS ACT,  
30 SHALL INCLUDE, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE,

1 OCCUPATIONAL DISEASE AS DEFINED IN SECTION 108 OF THIS ACT:  
2 PROVIDED, THAT WHENEVER OCCUPATIONAL DISEASE IS THE BASIS FOR  
3 COMPENSATION, FOR DISABILITY OR DEATH UNDER THIS ACT, IT SHALL  
4 APPLY ONLY TO DISABILITY OR DEATH RESULTING FROM SUCH DISEASE  
5 AND OCCURRING WITHIN THREE HUNDRED WEEKS AFTER THE LAST DATE OF  
6 EMPLOYMENT IN AN OCCUPATION OR INDUSTRY TO WHICH HE WAS EXPOSED  
7 TO HAZARDS OF SUCH DISEASE: AND PROVIDED FURTHER, THAT IF THE  
8 EMPLOYE'S COMPENSABLE DISABILITY HAS OCCURRED WITHIN SUCH  
9 PERIOD, HIS SUBSEQUENT DEATH AS A RESULT OF THE DISEASE SHALL  
10 LIKEWISE BE COMPENSABLE. THE PROVISIONS OF THIS PARAGRAPH (2)  
11 SHALL APPLY ONLY WITH RESPECT TO THE DISABILITY OR DEATH OF AN  
12 EMPLOYE WHICH RESULTS IN WHOLE OR IN PART FROM THE EMPLOYE'S  
13 EXPOSURE TO THE HAZARD OF OCCUPATIONAL DISEASE AFTER JUNE 30,  
14 1973 IN EMPLOYMENT COVERED BY THE PENNSYLVANIA WORKMEN'S  
15 COMPENSATION ACT. THE EMPLOYER LIABLE FOR COMPENSATION PROVIDED  
16 BY SECTION 305.1 OR SECTION 108, SUBSECTIONS (K), (L), (M), (O),  
17 (P) [OR], (Q) OR (R), SHALL BE THE EMPLOYER IN WHOSE EMPLOYMENT  
18 THE EMPLOYE WAS LAST EXPOSED FOR A PERIOD OF NOT LESS THAN ONE  
19 YEAR TO THE HAZARD OF THE OCCUPATIONAL DISEASE CLAIMED. IN THE  
20 EVENT THE EMPLOYE DID NOT WORK IN AN EXPOSURE AT LEAST ONE YEAR  
21 FOR ANY EMPLOYER DURING THE THREE HUNDRED WEEK PERIOD PRIOR TO  
22 DISABILITY OR DEATH, THE EMPLOYER LIABLE FOR THE COMPENSATION  
23 SHALL BE THAT EMPLOYER GIVING THE LONGEST PERIOD OF EMPLOYMENT  
24 IN WHICH THE EMPLOYE WAS EXPOSED TO THE HAZARDS OF THE DISEASE  
25 CLAIMED.

26 \* \* \*

27 (F) COMPENSATION PURSUANT TO CANCER SUFFERED BY A  
28 FIREFIGHTER SHALL ONLY BE TO THOSE FIREFIGHTERS WHO HAVE SERVED  
29 FOUR OR MORE YEARS IN FIREFIGHTING DUTIES AND WHO CAN ESTABLISH  
30 DIRECT EXPOSURE TO FACTORS REFERRED TO IN SECTION 108(R)

1 RELATING TO CANCER BY A FIREFIGHTER. THE PRESUMPTION OF THIS  
2 SECTION MAY BE REBUTTED BY SUBSTANTIAL EVIDENCE THAT SHOWS THAT  
3 THE FIREFIGHTER ENGAGED IN CONDUCT OR ACTIVITIES OUTSIDE OF  
4 FIREFIGHTING DUTIES THAT POSED A SUBSTANTIAL RISK OF CAUSING THE  
5 CANCER. A CLAIM MADE BY A MEMBER OF A VOLUNTEER FIRE COMPANY  
6 MUST BE BASED ON EVIDENCE OF EXPOSURE TO CAUSAL FACTORS AS  
7 DOCUMENTED BY REPORTS FILED PURSUANT TO THE PENNSYLVANIA FIRE  
8 INFORMATION REPORTING SYSTEM, IF SUCH FIRE COMPANY PARTICIPATES  
9 IN THE SYSTEM, AND PROVIDED THAT THE MEMBER'S CLAIM IS BASED ON  
10 BEING EXPOSED TO CAUSAL FACTORS ON OR AFTER THE DATE THE FIRE  
11 COMPANY BEGAN TO UTILIZE THE REPORTING SYSTEM. THE LIMITATION IN  
12 SUBSECTION (C) (2) WITH RESPECT TO DISABILITY OR DEATH RESULTING  
13 FROM AN OCCUPATIONAL DISEASE HAVING TO OCCUR WITHIN THREE  
14 HUNDRED WEEKS AFTER THE LAST DATE OF EMPLOYMENT IN AN OCCUPATION  
15 OR INDUSTRY TO WHICH A CLAIMANT WAS EXPOSED TO HAZARDS OF  
16 DISEASE SHALL NOT APPLY TO CLAIMS FILED PURSUANT TO CANCER  
17 SUFFERED BY THE FIREFIGHTER UNDER SECTION 108(R).

18 SECTION 3. THE PROVISIONS OF THIS ACT SHALL APPLY TO CLAIMS  
19 FILED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

20 Section 3 4. This act shall take effect immediately. ←