

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 654 Session of 2011

INTRODUCED BY ARGALL, PILEGGI, STACK, TARTAGLIONE, ERICKSON,
YUDICHAK, PIPPY, YAW, LEACH, SOLOBAY, KASUNIC, WAUGH, MENSCH
AND FONTANA, FEBRUARY 28, 2011

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 28, 2011

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
15 subsection to read:

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

18 * * *

19 (r) Cancer suffered by a firefighter which is caused by
20 exposure to a known carcinogen which is recognized as a Group 1
21 carcinogen by the International Agency for Research on Cancer.

1 Section 2. Section 301(c) of the act, amended December 5,
2 1974 (P.L.782, No.263) and July 2, 1993 (P.L.190, No.44), is
3 amended and the section is amended by adding a subsection to
4 read:

5 Section 301. * * *

6 (c) (1) The terms "injury" and "personal injury," as used
7 in this act, shall be construed to mean an injury to an employe,
8 regardless of his previous physical condition, except as
9 provided under subsection (f), arising in the course of his
10 employment and related thereto, and such disease or infection as
11 naturally results from the injury or is aggravated, reactivated
12 or accelerated by the injury; and wherever death is mentioned as
13 a cause for compensation under this act, it shall mean only
14 death resulting from such injury and its resultant effects, and
15 occurring within three hundred weeks after the injury. The term
16 "injury arising in the course of his employment," as used in
17 this article, shall not include an injury caused by an act of a
18 third person intended to injure the employe because of reasons
19 personal to him, and not directed against him as an employe or
20 because of his employment; nor shall it include injuries
21 sustained while the employe is operating a motor vehicle
22 provided by the employer if the employe is not otherwise in the
23 course of employment at the time of injury; but shall include
24 all other injuries sustained while the employe is actually
25 engaged in the furtherance of the business or affairs of the
26 employer, whether upon the employer's premises or elsewhere, and
27 shall include all injuries caused by the condition of the
28 premises or by the operation of the employer's business or
29 affairs thereon, sustained by the employe, who, though not so
30 engaged, is injured upon the premises occupied by or under the

1 control of the employer, or upon which the employer's business
2 or affairs are being carried on, the employe's presence thereon
3 being required by the nature of his employment.

4 (2) The terms "injury," "personal injury," and "injury
5 arising in the course of his employment," as used in this act,
6 shall include, unless the context clearly requires otherwise,
7 occupational disease as defined in section 108 of this act:
8 Provided, That whenever occupational disease is the basis for
9 compensation, for disability or death under this act, it shall
10 apply only to disability or death resulting from such disease
11 and occurring within three hundred weeks after the last date of
12 employment in an occupation or industry to which he was exposed
13 to hazards of such disease: And provided further, That if the
14 employe's compensable disability has occurred within such
15 period, his subsequent death as a result of the disease shall
16 likewise be compensable. The provisions of this paragraph (2)
17 shall apply only with respect to the disability or death of an
18 employe which results in whole or in part from the employe's
19 exposure to the hazard of occupational disease after June 30,
20 1973 in employment covered by The Pennsylvania Workmen's
21 Compensation Act. The employer liable for compensation provided
22 by section 305.1 or section 108, subsections (k), (l), (m), (o),
23 (p) [or], (q) or (r), shall be the employer in whose employment
24 the employe was last exposed for a period of not less than one
25 year to the hazard of the occupational disease claimed. In the
26 event the employe did not work in an exposure at least one year
27 for any employer during the three hundred week period prior to
28 disability or death, the employer liable for the compensation
29 shall be that employer giving the longest period of employment
30 in which the employe was exposed to the hazards of the disease

1 claimed.

2 * * *

3 (f) Compensation pursuant to cancer suffered by a
4 firefighter shall only be to those firefighters who have served
5 four or more years in continuous firefighting duties, who can
6 establish direct exposure to a carcinogen referred to in section
7 108(r) relating to cancer by a firefighter and have successfully
8 passed a physical examination prior to asserting a claim under
9 this paragraph or prior to engaging in firefighting duties and
10 the examination failed to reveal any evidence of the condition
11 of cancer. The presumption of this subsection may be rebutted by
12 substantial competent evidence that shows that the firefighter's
13 cancer was not caused by the occupation of firefighting. Any
14 claim made by a member of a volunteer fire company shall be
15 based on evidence of direct exposure to a carcinogen referred to
16 in section 108(r) as documented by reports filed pursuant to the
17 Pennsylvania Fire Information Reporting System and provided that
18 the member's claim is based on direct exposure to a carcinogen
19 referred to in section 108(r). Notwithstanding the limitation
20 under subsection (c)(2) with respect to disability or death
21 resulting from an occupational disease having to occur within
22 three hundred weeks after the last date of employment in an
23 occupation or industry to which a claimant was exposed to the
24 hazards of disease, claims filed pursuant to cancer suffered by
25 the firefighter under section 108(r) may be made within six
26 hundred weeks after the last date of employment in an occupation
27 or industry to which a claimant was exposed to the hazards of
28 disease. The presumption provided for under this paragraph shall
29 only apply to claims made within the first three hundred weeks.

30 Section 3. The Department of Labor and Industry shall submit

1 data on the amount of successful claims processed under section
2 301(f) to the chairman and minority chairman of the Labor and
3 Industry Committee of the Senate and to the chairman and
4 minority chairman of the Labor and Industry Committee of the
5 House of Representatives two years following the adoption of
6 this act and every two years thereafter.

7 Section 4. The provisions of this act shall apply to claims
8 filed on or after the effective date of this section.

9 Section 5. This act shall take effect immediately.