

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 528 Session of
2019

INTRODUCED BY JOZWIAK, McNEILL, ZIMMERMAN, MURT, JAMES,
BERNSTINE, IRVIN, RIGBY, GILLEN, BARRAR, THOMAS AND TOOHIL,
FEBRUARY 19, 2019

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, FEBRUARY 19, 2019

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, in volunteer firefighters, repealing
3 provisions relating to special fire police and providing for
4 fire police officers.

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

7 Section 1. Subchapter D of Chapter 74 of Title 35 of the
8 Pennsylvania Consolidated Statutes is repealed:

9 [SUBCHAPTER D

10 SPECIAL FIRE POLICE

11 Sec.

12 7431. Scope of subchapter.

13 7432. Definitions (Reserved).

14 7433. Nomination.

15 7434. Confirmation.

16 7435. Powers.

17 7436. Power and authority in places other than where appointed.

18 7437. Badge of authority and subordination.

1 § 7431. Scope of subchapter.

2 This subchapter applies to a volunteer fire company in any
3 city, borough, town, township or home rule municipality.

4 § 7432. Definitions (Reserved).

5 § 7433. Nomination.

6 An entity under section 7431 (relating to scope of
7 subchapter) may nominate any of its members as special fire
8 police.

9 § 7434. Confirmation.

10 Special fire police nominated under this subchapter shall,
11 before they enter upon their duties, be confirmed by the mayor
12 of the city, the mayor of the borough or town, the chairman of
13 the board of commissioners or supervisors of the township or the
14 chief executive officer of a home rule municipality, as the case
15 may be.

16 § 7435. Powers.

17 (a) Specific powers.--When confirmed and sworn and
18 displaying a badge of authority, special fire police shall have
19 full power to regulate traffic and keep crowds under control at
20 or in the vicinity of any fire on which their companies are in
21 attendance and to exercise other police powers necessary to
22 facilitate and prevent interference with the work of firemen in
23 extinguishing fires. They shall also have the police powers
24 necessary to perform their duties when functioning as special
25 fire police at any function, event or parade conducted by and
26 under the auspices of a volunteer fire company, or another
27 event, function or parade conducted by an organization other
28 than a volunteer fire company, provided that the request to
29 perform these duties is made by the governing body of the city,
30 borough, town, township or home rule municipality in which the

1 event will be conducted, or when accidents, floods or any other
2 emergencies require performance of traffic-control and crowd-
3 control duties. The duties may be performed without prior
4 request from the governing body until the arrival of proper
5 State, city, borough, town, township or home rule municipality
6 police authority and thereafter subject to direction of the
7 police authority until the emergency no longer exists. A person
8 functioning as special fire police and performing a duty under
9 any of the conditions in this subsection shall be deemed to be
10 performing the duties of his employment.

11 (b) Identification.--Fire police performing the duties under
12 this subchapter shall be identifiable by, at minimum, the
13 wearing of a distinctive arm band, hat, uniform or insignia.

14 (c) Construction.--Under no circumstances shall this
15 subchapter be construed to grant special fire police the right
16 to use firearms or other weapons in the exercise of special fire
17 police powers granted by this subchapter.

18 § 7436. Power and authority in places other than where
19 appointed.

20 Whenever a volunteer fire company is in attendance on a fire
21 or when the special fire police are on special duty as provided
22 under this subchapter, the special fire police in a city,
23 borough, town or township, other than the one in which the fire
24 company is organized, shall have the same power and authority in
25 another city, borough, town or township as they would have where
26 they were appointed.

27 § 7437. Badge of authority and subordination.

28 All special fire police when on duty shall display a badge of
29 authority and shall be subject to the control of the chief of
30 police, if any, of the city, borough, town or township in which

1 they are serving, or, if none, of a member of the Pennsylvania
2 State Police.]

3 Section 2. Chapter 74 of Title 35 is amended by adding a
4 subchapter to read:

5 SUBCHAPTER E

6 FIRE POLICE OFFICERS

7 Sec.

8 7441. Purpose of subchapter.

9 7442. Definitions.

10 7443. Nominations and confirmations.

11 7444. Qualifications.

12 7445. Organization.

13 7446. Powers and duties.

14 7447. Employment.

15 7448. Firearms.

16 § 7441. Purpose of subchapter.

17 The purpose of this subchapter is to provide for the
18 appointment, powers and control of fire police officers and to
19 confer powers on fire police officers at incident sites in their
20 city, borough, town, township or home rule municipality.

21 § 7442. Definitions.

22 The following words and phrases when used in this subchapter
23 shall have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Chief elected executive officer." The mayor of a city or
26 borough or the chairperson of the commissioners or supervisors
27 of the elected executive officers of any county, township or
28 incorporated town.

29 "Chief law enforcement officer." The head of a duly
30 constituted municipal law enforcement agency which regularly

1 provides primary police services to a political subdivision or
2 any officer of the Pennsylvania State Police.

3 "Fire police officer." A firefighter who is a member of a
4 volunteer fire company nominated by the members of the
5 firefighter's company and confirmed by the chief elected
6 executive officer to perform traffic control and crowd control
7 duties at incident sites or local events.

8 "Incident." An event or condition which constitutes an
9 actual or imminent threat to public health and safety and public
10 or private property.

11 "Incident commander." The individual responsible for each
12 incident-related activity, including the development of
13 strategies and tactics and the ordering and releasing of
14 resources as provided under the National Incident Management
15 System.

16 "Municipality." A county, city, borough, incorporated town
17 or township. The term includes a council of governments,
18 including school districts, established by a county, city,
19 borough, incorporated town or township.

20 "Mutual aid." Mutual assistance and sharing of resources
21 among participating political subdivisions in the prevention of,
22 response to and recovery from threats to public health and
23 safety that are beyond the capability of an affected community
24 to respond to the threats.

25 "National Incident Management System." The National Incident
26 Management System established by the United States Department of
27 Homeland Security.

28 § 7443. Nominations and confirmations.

29 (a) Nomination.--The membership of a local volunteer fire
30 company shall submit the name of a firefighter who is a member

1 of the firefighter's company to the chief elected executive
2 officer of the local municipality for nomination as a fire
3 police officer.

4 (b) Confirmation.--The chief elected executive officer shall
5 confirm and swear fire police officers into office.

6 (c) Oath.--Individuals nominated and confirmed under this
7 section, before commencing any duties, shall take an oath in
8 writing before an individual authorized to administer oaths in
9 this Commonwealth, the form of which shall be substantially as
10 follows:

11 I,....., do solemnly swear that I will support and defend
12 the Constitution of the United States and the
13 Constitution of the Commonwealth of Pennsylvania against
14 all enemies, foreign and domestic; that I will bear true
15 faith and allegiance to the same; that I take this
16 obligation freely, without any mental reservation or
17 purpose of evasion; and that I will well and faithfully
18 discharge the duties upon which I am about to enter. I do
19 further swear that I do not advocate, nor am I a member
20 or an affiliate of any organization, group or combination
21 of persons that advocates, the overthrow of the
22 government of the United States or of this Commonwealth
23 by force or violence and that during the time that as I
24 am a member of the fire police I will not advocate, nor
25 become a member nor an affiliate of any organization,
26 group or combination of persons that advocates, the
27 overthrow of the government of the United States or of
28 this Commonwealth by force of violence.

29 § 7444. Qualifications.

30 (a) Citizenship required.--A person may not be nominated,

1 affirmed or sworn as a fire police officer under this subchapter
2 who:

3 (1) is not a citizen of the United States;

4 (2) advocates or has advocated a change by force of
5 violence in the constitutional form of government of the
6 United States or of this Commonwealth or the overthrow of a
7 government in the United States by force or violence; or

8 (3) has been convicted of or is under indictment or
9 information charging any subversive act against the United
10 States or felony.

11 (b) Training.--Each individual nominated under this section
12 shall, before commencing any duty, satisfactorily complete all
13 training as prescribed by the chief law enforcement officer of
14 the municipality.

15 (c) Outerwear.--Each fire police officer shall wear a
16 distinctive vest, hat or uniform while on duty, in compliance
17 with nationally accepted standards, and shall display a badge of
18 authority.

19 § 7445. Organization.

20 (a) Events.--Fire police officers acting at local functions,
21 parades and community events or incidents where they are
22 properly dispatched by a public safety answering point as
23 defined under section 5302 (relating to definitions) shall be
24 under the direction and control of the chief elected executive
25 officer of the municipality or the State or municipal police
26 authority which has jurisdiction over the event or incident.

27 (b) Authority.--Fire police officers shall serve at the
28 pleasure of the chief elected executive officer of the
29 municipality or the Pennsylvania State Police. Fire police
30 officers are subject to the authority of the incident commander

1 while on active duty.

2 (c) Duties of municipality.--Each local municipality shall
3 be responsible for providing uniforms, safety equipment and
4 traffic control devices necessary for fire police officers to
5 perform their duties.

6 (d) Temporary fire police officers.--A local municipality
7 may appoint temporary fire police officers in the event of an
8 emergency.

9 § 7446. Powers and duties.

10 Fire police officers shall have the following powers and
11 duties:

12 (1) To regulate traffic and keep crowds under control at
13 any function, event or parade conducted by the local
14 municipality or at or in the vicinity of any incident site on
15 which their companies are in attendance.

16 (2) To perform duties authorized under this subchapter
17 without prior request from the municipality until the arrival
18 of the incident commander.

19 (3) To exercise other police powers necessary in order
20 to facilitate and prevent interference with the work of
21 emergency services and to protect both emergency service
22 personnel and the general public.

23 (4) To act within the scope of the authority of fire
24 police officers until appropriate law enforcement officials
25 assume responsibility for the incident or until the incident
26 commander no longer requires the assistance of the fire
27 police officers.

28 (5) To act with the same powers necessary to perform
29 duties when functioning as fire police officers under the
30 auspices of an organization other than their local volunteer

1 fire company. The request to perform the duties shall be made
2 by the governing body of the municipality in which the event
3 is conducted.

4 (6) To provide mutual aid or attend an incident on
5 special duty in another municipality under the operational
6 control of the appropriate officials within the incident
7 management system of the requesting municipality. The
8 incident commander shall have overall authority and
9 responsibility for conducting incident operations and shall
10 be responsible for the management of all incident operations
11 at the incident site. Fire police officers shall act with the
12 same powers and authority as in the municipality by which the
13 fire police officers are appointed.

14 § 7447. Employment.

15 An individual functioning as a fire police officer under this
16 subchapter shall be deemed to be performing the duties of the
17 fire police officer's employment.

18 § 7448. Firearms.

19 This subchapter shall not be construed to grant fire police
20 officers the right or power to use firearms or other weapons in
21 the exercise of fire police officer powers granted under this
22 subchapter.

23 Section 3. This act shall take effect immediately.