
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 797 Session of
2011

INTRODUCED BY FARRY, MURPHY, BARRAR, DIGIROLAMO, MARSHALL,
O'NEILL, BISHOP, BRADFORD, CALTAGIRONE, CLYMER, COHEN,
D. COSTA, DALEY, DAVIS, DEASY, J. EVANS, EVERETT, FLECK,
GIBBONS, GINGRICH, GOODMAN, GROVE, HALUSKA, HARKINS, HESS,
HORNAMAN, JOSEPHS, W. KELLER, KOTIK, KULA, LONGIETTI, MANN,
MASSER, MCGEEHAN, MICCARELLI, MICOZZIE, M. O'BRIEN, PETRARCA,
PYLE, QUIGLEY, REICHLEY, SABATINA, J. TAYLOR, TOOHIL,
VULAKOVICH, WAGNER, GEIST, WATSON, KIRKLAND, B. BOYLE AND
DeLUCA, MARCH 3, 2011

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, MARCH 3, 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 clause to read:

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

1 * * *

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

5 Section 2. Section 301(c) of the act, amended December 5,
6 1974 (P.L.782, No.263) and July 2, 1993 (P.L.190, No.44), is
7 amended and the section is amended by adding a subsection to
8 read:

9 Section 301. * * *

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

1 shall include all injuries caused by the condition of the
2 premises or by the operation of the employer's business or
3 affairs thereon, sustained by the employe, who, though not so
4 engaged, is injured upon the premises occupied by or under the
5 control of the employer, or upon which the employer's business
6 or affairs are being carried on, the employe's presence thereon
7 being required by the nature of his employment.

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

1 for any employer during the three hundred week period prior to
2 disability or death, the employer liable for the compensation
3 shall be that employer giving the longest period of employment
4 in which the employe was exposed to the hazards of the disease
5 claimed.

6 * * *

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

1 or industry to which a claimant was exposed to the hazards of
2 disease. The presumption provided for under this subsection
3 shall only apply to claims made within the first three hundred
4 weeks.

5 Section 3. The Department of Labor and Industry shall submit
6 data on the amount of successful claims processed under section
7 301(f) to the chairman and minority chairman of the Labor and
8 Industry Committee of the Senate and to the chairman and
9 minority chairman of the Labor and Industry Committee of the
10 House of Representatives two years following the adoption of
11 this act and every two years thereafter.

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

14 Section 5. This act shall take effect immediately.