

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 432 Session of  
2019

INTRODUCED BY BARRAR, SAINATO, BIZZARRO, BOYLE, BURNS, COMITTA, DAVIDSON, A. DAVIS, T. DAVIS, DEASY, DELLOSO, DeLUCA, DERMODY, DiGIROLAMO, DONATUCCI, DRISCOLL, ECKER, FARRY, FITZGERALD, FRANKEL, GAINEY, GAYDOS, HARKINS, HARRIS, HILL-EVANS, INNAMORATO, ISAACSON, KORTZ, KULIK, MADDEN, MARKOSEK, MARSHALL, MATZIE, McNEILL, MERSKI, D. MILLER, MULLINS, MURT, NEILSON, O'MARA, POLINCHOCK, RAVENSTAHL, READSHAW, RYAN, SAPPEY, SCHLOSSBERG, SCHWEYER, SNYDER, SOLOMON, STAATS, WARREN, WHITE, SCHMITT, ZABEL, FLYNN, ULLMAN, TOEPEL, HOHENSTEIN, KRUEGER, KENYATTA, GABLER, CALTAGIRONE, CIRESI, CONKLIN, PASHINSKI, DOWLING, RADER, MEHAFFIE, WEBSTER, STEPHENS, TOOHL, McCARTER, HERSHEY, MIHALEK, RIGBY, OTTEN, LONGIETTI, BERNSTINE, WALSH, STRUZZI, WHEATLEY, GOODMAN, THOMAS AND WILLIAMS, FEBRUARY 11, 2019

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 2019

## 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 the definition of <--  
8 "occupational disease" DEFINITIONS; and, in liability and <--  
9 compensation, further providing for compensation for post-  
10 traumatic stress injury.

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

13 ~~Section 1. Section 108 of the act of June 2, 1915 (P.L.736, <--~~  
14 ~~No.338), known as the Workers' Compensation Act, is amended by~~  
15 ~~adding a clause to read:~~

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

3       \* \* \*

4       ~~(s) Post traumatic stress injury, that is suffered by a~~  
5 ~~professional and volunteer firefighter, volunteer ambulance~~  
6 ~~corps personnel, volunteer rescue and lifesaving squad~~  
7 ~~personnel, emergency medical services personnel and paramedics,~~  
8 ~~a Pennsylvania State Police officer and a police officer~~  
9 ~~requiring certification under 53 Pa.C.S. Ch. 21 (relating to~~  
10 ~~employees), and caused by exposure to a traumatic event arising~~  
11 ~~in the course of the individual's employment or, after four~~  
12 ~~years or more of service, is caused by and related to the~~  
13 ~~cumulative effect of psychological stress in the course of the~~  
14 ~~individual's employment for the benefit and safety of the~~  
15 ~~public.~~

16       SECTION 1. SECTION 109 OF THE ACT OF JUNE 2, 1915 (P.L.736, <--  
17 NO.338), KNOWN AS THE WORKERS' COMPENSATION ACT, IS AMENDED BY  
18 ADDING DEFINITIONS TO READ:

19       SECTION 109. IN ADDITION TO THE DEFINITIONS SET FORTH IN  
20 THIS ARTICLE, THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS  
21 ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS  
22 THE CONTEXT CLEARLY INDICATES OTHERWISE:

23       \* \* \*

24       "CORRECTIONS OFFICER" MEANS A FULL-TIME EMPLOYEE ASSIGNED TO  
25 THE DEPARTMENT OF CORRECTIONS WHOSE PRINCIPAL DUTY IS THE CARE,  
26 CUSTODY AND CONTROL OF INMATES OF A PENAL OR CORRECTIONAL  
27 INSTITUTION OPERATED BY THE DEPARTMENT OF CORRECTIONS.

28       \* \* \*

29       "POST-TRAUMATIC STRESS INJURY" SHALL MEAN A POST-TRAUMATIC  
30 STRESS DISORDER AS DEFINED BY A MENTAL DISORDER CHARACTERIZED BY

1 DIRECT EXPOSURE TO A TRAUMATIC EVENT AS IDENTIFIED BY THE  
2 AMERICAN PSYCHIATRIC ASSOCIATION AND DOCUMENTED IN THE AMERICAN  
3 PSYCHIATRIC ASSOCIATION'S DIAGNOSTIC AND STATISTICAL MANUAL OF  
4 MENTAL DISORDERS, 5TH EDITION.

5 \* \* \*

6 "TELECOMMUNICATOR" MEANS AN INDIVIDUAL EMPLOYED BY A PUBLIC  
7 SAFETY ANSWERING POINT WHOSE PRIMARY RESPONSIBILITY IS TO  
8 RECEIVE, PROCESS, TRANSMIT OR DISPATCH EMERGENCY AND  
9 NONEMERGENCY CALLS FOR SERVICE FOR EMERGENCY MEDICAL, FIRE AND  
10 RESCUE, LAW ENFORCEMENT OR OTHER PUBLIC SAFETY SERVICES VIA  
11 TELEPHONE, RADIO OR OTHER COMMUNICATION DEVICE. THE TERM SHALL  
12 INCLUDE, BUT NOT BE LIMITED TO, CALL TAKERS, EMERGENCY  
13 DISPATCHERS AND SUPERVISORS.

14 \* \* \*

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

17 Section 301. \* \* \*

INSERT Cox Paragraph

18 (g) (1) A post-traumatic stress injury suffered by a <--  
19 professional and volunteer firefighter, volunteer ambulance  
20 corps personnel, volunteer rescue and lifesaving squad  
21 personnel, emergency medical services personnel and paramedics,  
22 TELECOMMUNICATOR, CORRECTIONS OFFICER, a Pennsylvania State <--  
23 Police officer and a police officer requiring certification  
24 under 53 Pa.C.S. Ch. 21 (relating to employees) shall be  
25 established by a preponderance of the SUBSTANTIAL COMPETENT <--  
26 evidence that the injury WAS CAUSED BY A DIRECT EXPOSURE TO A <--  
27 NORMAL OR ABNORMAL WORKING CONDITION AND was received while in  
28 the course of the individual's employment.

29 (2) A POST-TRAUMATIC STRESS INJURY SUFFERED BY AN INDIVIDUAL <--  
30 UNDER PARAGRAPH (1) SHALL BE BASED ON AN EXAMINATION AND



1 DIAGNOSIS BY A PSYCHOLOGIST OR PSYCHIATRIST DULY LICENSED UNDER  
2 THE LAWS OF THIS COMMONWEALTH.  
3 (3) FOR PURPOSES OF THIS SUBSECTION, A POST-TRAUMATIC STRESS  
4 INJURY SUFFERED AS A RESULT OF AN EMPLOYMENT ACTION, INCLUDING,  
5 BUT NOT LIMITED TO, DISCIPLINARY ACTION, JOB OR PERFORMANCE  
6 EVALUATION, JOB TRANSFERS OR EMPLOYMENT TERMINATION, SHALL NOT  
7 BE COMPENSABLE UNLESS IT CAN BE ESTABLISHED BY SUBSTANTIAL  
8 COMPETENT EVIDENCE THAT THE UNDERLYING CAUSE OF THE EMPLOYMENT  
9 ACTION IS DIRECTLY ATTRIBUTABLE TO THE INJURY AS PROVIDED FOR  
10 UNDER THIS SUBSECTION.

11 Section 3. The AMENDMENT OR addition of sections ~~108(s)~~ 109 <--  
12 and <sup>301(c)(3)</sup> 301(g) of the act shall apply to claims filed on or after  
13 the effective date of this section.

14 Section 4. This act shall take effect ~~in 60 days~~. AS <--  
15 FOLLOWS:

16 (1) THE AMENDMENT OR ADDITION OF SECTIONS 109 AND <sup>301(c)(3)</sup> 301(G)  
17 OF THE ACT SHALL TAKE EFFECT ONE YEAR AFTER THE EFFECTIVE  
18 DATE OF THIS SECTION.

19 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
20 IMMEDIATELY.

## AMENDMENTS TO HOUSE BILL NO. 432

Sponsor: REPRESENTATIVE COX

Printer's No. 2568

Amend Bill, page 2, line 30; page 3, line 1; by striking out "AS DEFINED BY A MENTAL DISORDER CHARACTERIZED BY" in line 30 on page 2 and "DIRECT EXPOSURE TO A TRAUMATIC EVENT" in line 1 on page 3

Amend Bill, page 3, line 15, by striking out "301" and inserting

301(c)

Amend Bill, page 3, line 16, by striking out "subsection" and inserting

paragraph

Amend Bill, page 3, lines 18 through 30; page 4, lines 1 through 10; by striking out all of said lines on said pages and inserting

(c) \* \* \*

**INSERT PARAGRAPH**

(3) The terms "injury," "personal injury" and "injury arising in the course of his employment," as used in this act, shall include, unless the context clearly requires otherwise, a post-traumatic stress injury suffered by a professional and volunteer firefighter, volunteer ambulance corps personnel, volunteer rescue and lifesaving squad personnel, emergency medical services personnel and paramedics, telecommunicator, corrections officer, a Pennsylvania State Police officer and a police officer requiring certification under 53 Pa.C.S. Ch. 21 (relating to employees), which shall be established by substantial competent evidence that the injury was caused by a direct exposure to a traumatic event occurring in the course and scope of the individual's employment. The following shall apply:

(i) A post-traumatic stress injury suffered by an individual under this paragraph shall be based on an examination and diagnosis by a psychologist or psychiatrist duly licensed under

the laws of this Commonwealth.

(ii) For purposes of this paragraph, a post-traumatic stress injury suffered as a result of an employment action, including, but not limited to, disciplinary action, job or performance evaluation, job transfers or employment termination, shall not be compensable.

(iii) A claim for a post-traumatic stress injury must be filed within three years of the date of diagnosis.

(iv) Where a post-traumatic stress injury is diagnosed after the last date of employment, subparagraphs (ii) and (iii) shall not be construed to prohibit a claim against the employer of the individual at the time of the direct exposure to the traumatic event which caused the injury.

Amend Bill, page 4, line 12, by striking out "301(g)" and inserting

301(c)(3)

Amend Bill, page 4, line 16, by striking out "301(G)" and inserting

301(c)(3)