

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1869 Session of
2019

INTRODUCED BY OWLETT, BARRAR, CAUSER, PICKETT, SCHMITT, GROVE,
GABLER, POLINCHOCK, ROAE, STRUZZI, CALTAGIRONE, FRITZ,
WHEELAND, ZIMMERMAN, BERNSTINE, HERSHEY, RAPP, WEBSTER, KORTZ
AND GILLEN, SEPTEMBER 23, 2019

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, APRIL 20, 2020

AN ACT

Amending Title 35 (Health and Safety) of the Pennsylvania
Consolidated Statutes, PROVIDING FOR COVID-19 ENFORCEMENT
OFFICER DISABILITY BENEFITS AND FOR COVID-19 BENEFITS FOR
MEMBERS OF PENNSYLVANIA NATIONAL GUARD; AND, in emergency
medical services system, further providing for basic life
support ambulances.

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

~~Section 1. Section 8133 of Title 35 of the Pennsylvania
Consolidated Statutes is amended by adding a subsection to read:~~

SECTION 1. TITLE 35 OF THE PENNSYLVANIA CONSOLIDATED
STATUTES IS AMENDED BY ADDING CHAPTERS TO READ:

CHAPTER 57

COVID-19 ENFORCEMENT OFFICER DISABILITY BENEFITS

SEC.

5701. SCOPE OF CHAPTER.

5702. ENFORCEMENT OFFICER DISABILITY BENEFITS.

§ 5701. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO ENFORCEMENT OFFICER DISABILITY BENEFITS RELATING TO COVID-19.

§ 5702. ENFORCEMENT OFFICER DISABILITY BENEFITS.

(A) GENERAL RULE.--A PERSON COVERED UNDER SECTION 1(A) OF THE ACT OF JUNE 28, 1935 (P.L.477, NO.193), REFERRED TO AS THE ENFORCEMENT OFFICER DISABILITY BENEFITS LAW, WHO CONTRACTS OR IS DIAGNOSED WITH CORONAVIRUS DISEASE 2019 (COVID-19), AS IDENTIFIED IN THE PROCLAMATION OF DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020), OR IS SUBJECT TO QUARANTINE RESULTING FROM EXPOSURE TO COVID-19, AND BY REASON THEREOF IS TEMPORARILY INCAPACITATED FROM PERFORMING HIS DUTIES, SHALL BE COMPENSATED IN ACCORDANCE WITH SECTION 1(A) OF THE THE ENFORCEMENT OFFICER DISABILITY BENEFITS LAW.

(B) LIMITATION.--A BENEFIT RECEIVED UNDER SUBSECTION (A) SHALL BE LIMITED TO 60 DAYS FOR EACH INCIDENT.

CHAPTER 58

COVID-19 BENEFITS FOR MEMBERS OF

PENNSYLVANIA NATIONAL GUARD

SEC.

5801. SCOPE OF CHAPTER.

5802. BENEFIT.

§ 5801. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO COVID-19 BENEFITS FOR MEMBERS OF THE PENNSYLVANIA NATIONAL GUARD.

§ 5802. BENEFIT.

(A) BENEFIT.--NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER OF THE PENNSYLVANIA NATIONAL GUARD SHALL RECEIVE FROM THE DEPARTMENT A BENEFIT COMPUTED UNDER SUBSECTION (B) (2) IF THE

MEMBER:

(1) IS ORDERED TO STATE ACTIVE DUTY FOR EMERGENCY OR SPECIAL STATE DUTY BY THE ADJUTANT GENERAL OR BY THE GOVERNOR; AND

(2) SUSTAINS AN INJURY WHILE PARTICIPATING IN DUTY UNDER PARAGRAPH (1) FROM THE PERIOD OF NOTIFICATION TO REPORT FOR DUTY UNTIL OFFICIALLY RELEASED.

(B) CLAIM SUBMISSION, CALCULATION AND FUNDING.--

(1) A MEMBER OF THE PENNSYLVANIA NATIONAL GUARD WHO SUSTAINS AN INJURY AND IS NOT COMPENSATED FOR THE INJURY BY THE FEDERAL GOVERNMENT, MUST SUBMIT A CLAIM TO RECEIVE THE BENEFIT AS PRESCRIBED BY THE ADJUTANT GENERAL.

(2) FOR PURPOSES OF COMPUTING THE AVERAGE WEEKLY WAGE OF A MEMBER OF THE PENNSYLVANIA NATIONAL GUARD OR DEPENDENT THEREOF, WEEKLY WAGES SHALL BE CALCULATED USING THE DAILY BASE PAY TABLE UNDER 37 U.S.C (RELATING TO PAY AND ALLOWANCES OF THE UNIFORMED SERVICES) TO DETERMINE THE PENNSYLVANIA NATIONAL GUARD MEMBER'S DAILY WAGE AT THE TIME OF THE INJURY. THE AVERAGE WEEKLY WAGE SHALL EQUAL THE MEMBER'S DAILY BASE PAY MULTIPLIED BY FIVE.

(3) A BENEFIT RECEIVED UNDER THIS SECTION SHALL BE LIMITED TO 60 DAYS FOR EACH INCIDENT.

(4) THE GENERAL ASSEMBLY SHALL APPROPRIATE THE MONEY NECESSARY TO BE DEPOSITED INTO A NONLAPSING RESTRICTED INTEREST-BEARING ACCOUNT TO PROVIDE FOR THE BENEFIT ESTABLISHED IN SUBSECTION (A).

(C) NO COMMONWEALTH EMPLOYEE STATUS.--IN NO EVENT SHALL ANY MEMBER OF THE PENNSYLVANIA NATIONAL GUARD WHILE PERFORMING THE ACTIVITIES DESCRIBED IN SUBSECTION (A) BE DEEMED AN EMPLOYEE OF

THE COMMONWEALTH FOR ANY PURPOSE OR BENEFIT. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ENTITLE A MEMBER OF THE PENNSYLVANIA NATIONAL GUARD TO ANY BENEFIT OR EMOLUMENT PROVIDED TO AN EMPLOYEE OF THE COMMONWEALTH.

(D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"DEPARTMENT." THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS OF THE COMMONWEALTH.

"INJURY." CONTRACTS OR IS DIAGNOSED WITH CORONAVIRUS DISEASE 2019, KNOWN AS COVID-19, AS IDENTIFIED IN THE PROCLAMATION OF DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020), OR IS SUBJECT TO QUARANTINE RESULTING FROM EXPOSURE TO COVID-19, AND, BY REASON OF THE EXPOSURE, IS TEMPORARILY INCAPACITATED FROM PERFORMING DUTIES.

"PARTICIPATING." THE TERM INCLUDES ACTIVITIES ORDERED BY THE ADJUTANT GENERAL OR BY THE GOVERNOR SUCH AS TRAINING, AN EXERCISE OR RELATED OFFICIAL FUNCTIONS.

"SPECIAL STATE DUTY." STATE MILITARY DUTY BY THE PENNSYLVANIA NATIONAL GUARD UNDER THIS SECTION. THE TERM SHALL NOT INCLUDE STATE ACTIVE DUTY FOR EMERGENCY UNDER THIS SECTION OR DUTY AUTHORIZED AND FUNDED UNDER 10 U.S.C. OR 32 U.S.C.

"STATE ACTIVE DUTY FOR EMERGENCY." STATE MILITARY DUTY BY THE PENNSYLVANIA NATIONAL GUARD UNDER 51 PA.C.S. § 508 (RELATING TO ACTIVE DUTY FOR EMERGENCY) THAT IS NOT ACTIVE DUTY AUTHORIZED AND FUNDED UNDER 10 U.S.C. (RELATING TO ARMED FORCES) OR 32 U.S.C. (RELATING TO NATIONAL GUARD).

SECTION 2. SECTION 8133 OF TITLE 35 IS AMENDED BY ADDING A

SUBSECTION TO READ:

§ 8133. Basic life support ambulances.

* * *

~~(c) Exceptions for certain counties.--The staffing requirements under subsection (b) (2) may be waived or adjusted for counties of the fifth, sixth, seventh and eighth classes at~~

~~(C) EXCEPTIONS FOR CERTAIN COUNTIES.--~~

(1) THE STAFFING REQUIREMENTS UNDER SUBSECTION (B) (2) MAY BE WAIVED OR ADJUSTED AT the department's discretion. The department shall permit an EMS agency to file for a waiver or exception from the staffing requirements under this subsection for extraordinary reasons as determined by the department on a case-by-case basis and in the best interest of the EMS system and patient care.

(2) THIS SUBSECTION SHALL EXPIRE THREE YEARS FROM THE DATE OF ENACTMENT OF THIS SUBSECTION.

~~Section 2 3. This act shall take effect in 60 days.~~

SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

(1) THE ADDITION OF 35 PA.C.S. § 8133(C) SHALL TAKE EFFECT IN 60 DAYS.

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