

Chester County Volunteer Fire Police Association



Review on Act 122
Non-Emergency Special Event Services
For Volunteer Fire Police Officers
January 8, 2023

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REVIEW OF ACT 122 OF 1980
SUBCHAPTER D “SPECIAL FIRE POLICE”

Difference between “Emergency” vs.
“Non-Emergency” Services
- Workers Compensation Coverage -

Summary of Topics to be Reviewed

- What is a Statutory Employee of your Domicile/Home Municipality
- Review of the “Law” Subchapter D – Special Fire Police
- Emergency Response Coverage and Authority
- Self Activation Review
- Non-Emergency Services Organization Request for “Special Event”
- Emergency Services Organization Request for “Special Event”
- Sample Examples for “Non-Emergency Special Event Request”
- Things Not to Do as Volunteers Fire Police
- Questions

Statutory Employee

- Workers' compensation generally requires an employer-employee relationship for the injured worker to receive benefits. Technically, because a volunteer firefighter is not being paid for their work, no matter how dangerous it is, they are not usually considered an employee.
- Luckily, the Pennsylvania legislature included a provision in the Pennsylvania Workers' Compensation Act specifically addressing volunteer firefighters injured in the line of duty. The Act requires the municipality where the volunteer firefighter serves must provide workers' compensation coverage. The volunteer is considered a "Statutory Employee" of the municipality responsible.
- Therefore, all injuries and illness related to firefighting are covered by workers' compensation. Whether you injure your back pulling a hose, fracture a leg falling through a floor, lose your hearing due to a loud noise or suffer lung damage from smoke inhalation, you have the right to file a workers' compensation claim. In addition, you would be entitled to [Heart and Lung Benefits](#).

SUBCHAPTER D
SPECIAL FIRE POLICE

Sec.

7431. Scope of subchapter.

7432. Definitions (Reserved).

7433. Nomination.

7434. Confirmation.

7435. Powers.

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

7437. Badge of authority and subordination.

Special Provisions in Appendix. See section 7(b.1)(2) of Act 118 of 2010 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Subchapter D is referred to in sections 7431, 7434, 7435, 7436 of this title; section 3505 of Title 18 (Crimes and Offenses).

§ **7431. Scope of subchapter.**

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

Cross References. Section 7431 is referred to *in* section 7433 of this title.

§ **7432. Definitions (Reserved).**

§ **7433. Nomination.**

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

§ **7434. Confirmation.**

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

§ **7435. Powers.**

§ 7435. Powers.

- (a) **Specific powers.**--When confirmed and sworn and displaying a badge of authority, special fire police shall have full power to regulate traffic and keep crowds under control at or in the vicinity of any fire on which their companies are in attendance and to exercise other police powers necessary to facilitate and prevent interference with the work of firemen in extinguishing fires. They shall also have the police powers necessary to perform their duties when functioning as special fire police at any function, event or parade conducted by and under the auspices of a volunteer fire company, or another event, function or parade conducted by an organization other than a volunteer fire company, provided that the request to perform these duties is made by the governing body of the city, borough, town, township or home rule municipality in which the event will be conducted, or when accidents, floods or any other emergencies require performance of traffic-control and crowd control duties. The duties may be performed without prior request from the governing body until the arrival of proper State, city, borough, town, township or home rule municipality police authority and thereafter subject to direction of the police authority until the emergency no longer exists. A person functioning as special fire police and performing a duty under any of the conditions in this subsection shall be deemed to be performing the duties of his employment.

Fire Police Law - 122

- Shall have the police powers necessary to perform their duties when functioning as Special Fire Police when accidents, floods, or any other emergencies require performance of such traffic and crowd control.
- In this instance – such duties may be performed **WITHOUT PRIOR REQUEST** from the governing body until the arrival of proper police authority and thereafter subject to direction of such police authority.

SELF-ACTIVATION

- There is one time that fire police officers may go on duty without formal activation by fire company alarm – municipal order or request
- This is when fire police officers come upon a sudden emergency anywhere in the State of Pa.
- The fire police law gives the authority to take control of such an emergency and use their police powers – as necessary – until the arrival of a regular police agency.

SELF-ACTIVATION

- Fire Police Officers **DO NOT** have to take on this responsibility.
- It is not mandated by law – it is a permitted activity.
- REMEMBER – however – an official hat and a badge of authority must worn before police powers can be legally exercised.

SELF-ACTIVATION

- **The Statute expressly provides that persons functioning as Special Fire Police – and performing a duty under any of the above conditions – shall be deemed to be performing the duties of their employment.**
- *Thus it is extremely important that Special Fire Police be functioning under proper statutory authority set forth in the above paragraph – as the municipality stands statutory exposure for Worker's Compensation and liability claims.*

Steps to take for “Non-Emergency Special Event” by Non-Emergency Services Organization

- 1.> **Volunteer Fire Police Officers are “Statutory Employees” of their respective “Domicile/Home” municipality. Workers Compensation for any potential injury/sickness is the responsibility of their “Domicile/Home” municipality.**
- 2.> The Municipal Official of the municipality where the event is being held sends a request to the “Domicile/Home” Municipal Official who is responsible for the Volunteer Fire Police who’s services is needed. This request cannot be made by any Official of the “Fire Company” directly from where the event is being held.
- 3.> Municipal Official of the “Domicile/Home” Volunteer Fire Police responds to the Municipal Official of the municipality where the event is being held either authorizing the services of their Volunteer Fire Police or denial.
- 4.> If authorized by the Municipal Official of the “Domicile/Home” Volunteer Fire Police the Volunteer Fire Police are notified by the their Municipal Official that they can participate if they choose to. Workers Compensation covering the Volunteer Fire Police of that “Domicile/Home” municipality will be responsible for any injuries/sickness that a participating Volunteer Fire Police Officer experiences while engaged in that “Non-Emergency Special Event”.
- 5.> If denial is received, “No” Volunteer Fire Police Officers can participate who are covered by their “Domicile/Home” municipality.
- 6.> This avoids “surprises” by the “Domicile/Home” municipal official and confirms their approval of the services to be provided by their Volunteer Fire Police Officers.

Steps to take for “Non-Emergency Special Event” if sponsored by a “Emergency Services Organization”

- 1.> The “Volunteer Fire Emergency Services Organization” Official, such as the head of the Volunteer Fire Police of that organization, who needs additional support for their upcoming “Non-Emergency event” sponsored by their Volunteer Fire Emergency Organization” can directly request help from other Volunteer Fire Police of neighboring Emergency Services Organization. Their request should be directly to the recognized head of any neighboring Volunteer Fire Police department they are requesting help from. **However, it is highly recommended this request be made by their municipal “Domicile/Home” Official to the municipality official who is responsible for the Volunteer Fire Police being requested. This is to provide awareness to that Official of this pending activity by their Emergency Services organization.**
- 2.> The neighboring Volunteer Fire Police Official, if they agree to their members participating, should request from their “Domicile/Home” municipality official, to be authorized to participate in that event if the request was direct by the sponsored event Emergency Services Organization. Workers Compensation coverage for those Volunteer Fire Police who are authorized to participate from their respective “Domicile/Home” municipalities, should have coverage for injuries/sickness suffered from their participation in that event. However it is highly recommended prior approval from the municipal official who is responsible for the Workers Compensation coverage for their Volunteer Fire Police Officers be secured for the participation in the event.
- 3.> If denial is the response from their “Domicile/Home” municipality, no Volunteer Fire Police officials should participate from the requested neighboring Volunteer Fire Department.

Act 122 for “Non-Emergency Special Event” by a “Non-Emergency Services Organization

- This means that Special Fire Police are only permitted by law to perform their duties at non-volunteer fire company event.
- *IF THE REQUEST TO PROVIDE THEIR SERVICE IS MADE BY THE GOVERNING BODY OF THE MUNICIPALITY IN WHICH THE EVENT WILL BE CONDUCTED.*
- The request is then sent to the **GOVERNING BODY** of the municipality whose fire police officers are being requested.

Authorization Resolution Request

- *The Council of Ourtown Borough hereby requests:*
- The Yourtown Borough to authorize your fire police to provided security and crowd control for the Annual Street Fair, sponsored by Post 87 of the American Legion in Ourtown.
- These officers will be needed for the period: July 7, 2023 from 0800 through 2200 hours.
- **A “Non-Emergency Services Organization” event.**

Authorization Resolution Approval

- *The Council of Yourtown Council of Yourtown Borough resolves as follows:*
- To give authorization hereby for the Yourtown Borough Fire Police to provide security and crowd services for the Annual Street fair sponsored by Post 87, the American Legion of Ourtown.
- To authorize a period of service:
July 7, 2023 0800 through 2200 hours.

Heycock Clears Firefighter Event

Emergency Services Organization Sponsored Event

- A courtesy letter from Milford Township to Haycock Township may have saved the Haycock grief had any of its fire company's firefighters been hurt while participating in special events.
- The letter, a request that the Haycock fire police help with traffic control at Milford's Balloon and Air Festival, got fire company officials thinking about the upcoming Fireman Olympics, sponsored by Milford Fire Company.

Heycock Clears Firefighter Event Emergency Services Organization Sponsored Event

- Their thinking and research revealed that the township must approve each activity, Otherwise Workers Compensation may not provide coverage if anyone was hurt.
- Their solicitor, Terry Clemons, recommended that the township pass a special resolution allowing the fire company to take part in the Olympics. That would insure that Workers Compensation would provide the necessary coverage.

Heycock Clears Firefighter Event Emergency Services Organization Sponsored Event

- Clemons recommended that a special resolution be passed each time the company plans to take part in “something that is not considered a normal activity of the fire company.”
- **He also suggested that the fire chief provide the township with a letter approving the company’s participation in the Olympics as well as any other special activities for the remainder of the year.**

Things to Remember for “Non-Emergency Special Events”

- 1.> A Volunteer Fire Police Officer **cannot** “self dispatch” to a “Non-Emergency Special Event” either being sponsored by an “Emergency Services Organization” or from a “Non-Emergency Services Organization”. Jeopardizes coverage under Workers Compensation for that Officer.
- 2.> An individual Volunteer Fire Police Officer **should never** accept direct compensation/payment for services from a “Non-Emergency Services Organization” such as a neighboring Municipality, Non-Profit or For Profit organization where the event is being held, for their services they provided. A monetary donation by that organization to the member’s Emergency Services Organization, such as a Volunteer Fire Company, is acceptable.
- 4.> An individual Volunteer Fire Police Officer **should never** carry any firearm or what can be considered a weapon, even if they have a permit for a conceal weapon.
- 5.> Members of Ladies Auxiliary are not covered by the “Domiciled/Home” Workers Compensation coverage, unless registered as a member of the ESO in addition.
- 6.> **Important to Know! Final acceptance that a members claim is covered is the decision of the Workers Compensation insurance carrier’s who covers the “Domicile/Home” Fire Police Officers you are a member of. There is no guarantee they will accept “all” claims presented.**

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Questions?