

No. 75

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED

SENATE BILL NO. 75

(By Senator Turner)



PASSED April 6, 1989

In Effect 90 days from Passage

ENROLLED
Senate Bill No. 75

(BY SENATOR WARNER)

[Passed April 6, 1989; in effect ninety days from passage.]

AN ACT to amend and reenact section seventeen, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article five by adding thereto a new section, designated section eighteen, relating to prohibiting employers from discharging employees for time lost by volunteer firemen in performing emergency services in connection with hazardous and toxic materials spills and cleanups; and prohibiting employers from discharging employees for time lost as emergency medical service personnel.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article five be further amended by adding thereto a new section, designated section eighteen, all to read as follows:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-17. Employers prohibited from discharging employees for time lost as volunteer firemen.

1 No employer may terminate an employee who is a

2 member of a volunteer fire department and who, in
3 the line of emergency duty as a volunteer fireman,
4 responds to an emergency call prior to the time he is
5 due to report for work and which emergency results
6 in a loss of time from his employment.

7 Any time lost from employment as provided in this
8 section may be charged against the employee's regular
9 pay.

10 At the request of an employer, any employee losing
11 time as provided herein shall supply his employer
12 with a statement from the chief of the volunteer fire
13 department stating that the employee responded to an
14 emergency call and the time thereof.

15 As used in this section, "emergency" shall mean
16 going to, attending to or coming from (1) an actual fire
17 call to prevent the imminent loss of life or property,
18 or (2) a hazardous or toxic materials spill and cleanup.
19 The term "employer" includes any individual, part-
20 nership, association, corporation, business trust or any
21 person or group of persons acting directly or indirectly
22 in the interest of an employer in relation to any
23 employee.

24 Any employer who willfully and knowingly violates
25 the provisions of this section shall be required to
26 reinstate such employee to his former position and
27 shall be required to pay such employee all lost wages
28 and benefits for the period between termination and
29 reinstatement. Any action to enforce the provisions of
30 this section shall be commenced within a period of one
31 year after the date of violation and such action shall be
32 commenced in the circuit court of the county wherein
33 the place of employment is located.

**§21-5-18. Employers prohibited from discharging employees
for time lost as emergency medical service
personnel.**

1 No employer may terminate an employee who is a
2 member of an emergency medical service and who, in
3 the line of emergency duty as an emergency medical
4 service member, responds to an emergency call prior

5 to the time he is due to report for work and which
6 emergency results in a loss of time from his
7 employment.

8 Any time lost from employment as provided in this
9 section may be charged against the employee's regular
10 pay.

11 At the request of an employer, any employee losing
12 time as provided herein shall supply his employer
13 with a statement from the director of health stating
14 that the employee responded to an emergency call and
15 the time thereof.

16 As used in this section, "emergency" shall mean
17 going to or coming from an actual medical emergency
18 to prevent the imminent loss of life. The term
19 "employer" includes any individual, partnership,
20 association, corporation, business trust or any person
21 or group of persons acting directly or indirectly in the
22 interest of an employer in relation to any employee.

23 Any employer who willfully and knowingly violates
24 the provisions of this section shall be required to
25 reinstate such employee to his former position and
26 shall be required to pay such employee all lost wages
27 and benefits for the period between termination and
28 reinstatement. Any action to enforce the provisions of
29 this section shall be commenced within a period of one
30 year after the date of violation and such action shall be
31 commenced in the circuit court of the county wherein
32 the place of employment is located.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L. Fisher
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Judd C. Nichols
.....
Clerk of the Senate

Donald J. Stopp
.....
Clerk of the House of Delegates

John J. Tomlinson
.....
President of the Senate

Robert C. Bell
.....
Speaker House of Delegates

The within *is approved* this the *20th*
day of *April* 1999.
Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/4/89

Time 4:35