WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

SENATE BILL NO. 75

(By Senator

PASSED April 6, 1989
In Effect 90 days from Passage

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

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

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

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

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

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

No employer may terminate an employee who is a
member of an emergency medical service and who, in
the line of emergency duty as an emergency medical
service member, responds to an emergency call prior
to the time he is due to report for work and which
emergency results in a loss of time from his
employment.

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

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

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

Any employer who willfully and knowingly violates
the provisions of this section shall be required to
reinstate such employee to his former position and
shall be required to pay such employee all lost wages
and benefits for the period between termination and
reinstatement. Any action to enforce the provisions of
this section shall be commenced within a period of one
year after the date of violation and such action shall be
commenced in the circuit court of the county wherein
the place of employment is located.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L. Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd A. Nichols
Clerk of the Senate

Donald L. Hoog
Clerk of the House of Delegates

Tony T. Tomlin
President of the Senate

Bob E. McCaslin
Speaker House of Delegates

The bill was approved this the 20th day of April 1989.

Gaston Caperton
Governor