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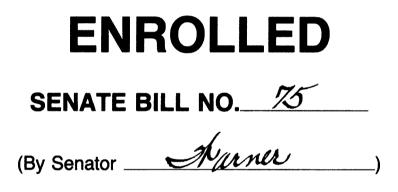
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OFFICE OF YEST VESHIA SECRETEET OF STATE

## WEST VIRGINIA LEGISLATURE

No. 72

**REGULAR SESSION, 1989** 



PASSED \_\_\_\_\_\_ 1989 In Effect <u>IO</u> 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 this8 section may be charged against the employee's regular9 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.

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, 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.

### §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

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.

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. Enr. S. B. No. 75]

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

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Chairman Senate Committee

nan House Committee

Originated in the Senate.

In effect ninety days from passage.

CMil.

Clerk of the Senate

Donald 7. Clerk of the House of Delege

President of the Senate Speaker House of Delegates

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PRESENTED TO THE GOVERNOR Date 4/469 Time 4:35