

By: Keffe

H.B. No. 1205

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prohibition of certain employment discrimination  
3 regarding an employee who is a volunteer emergency responder.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 2, Labor Code, is amended by  
6 adding Chapter 23 to read as follows:

7 CHAPTER 23. EMPLOYMENT DISCRIMINATION REGARDING

8 VOLUNTEER EMERGENCY RESPONDERS

9 Sec. 23.001. DEFINITIONS. In this chapter:

10 (1) "Emergency" includes a fire, hazardous or toxic  
11 materials spill and cleanup, medical emergency, or other situation  
12 that poses an imminent threat of loss of life or property to which a  
13 fire department or provider of emergency medical services has been  
14 or later could be dispatched.

15 (2) "Emergency medical services" has the meaning  
16 assigned by Chapter 773, Health and Safety Code.

17 (3) "Emergency medical services volunteer" has the  
18 meaning assigned by Section 773.003(13), Health and Safety Code.

19 (4) "Emergency service organization" means any entity  
20 established to provide for the public:

21 (A) fire prevention and suppression;  
22 (B) hazardous materials response operations; or  
23 (C) emergency medical services.

24 (5) "Employee" means an individual who is employed by

1       an employer for compensation.

2               (6) "Employer" means a person who employs one or more  
3       employees. The term includes the state or a political subdivision  
4       of the state.

5               (7) "Political subdivision" means a county,  
6       municipality, special district, or authority of this state.

7               (8) "Volunteer emergency responder" means an  
8       individual who is an active participant in an emergency service  
9       organization but who does not receive compensation for the  
10      individual's services. The term includes an emergency medical  
11      services volunteer and a volunteer firefighter.

12              (9) "Volunteer fire department" has the meaning  
13      assigned by Section 614.101, Government Code.

14              (10) "Volunteer firefighter" means an individual who  
15      is a member of a volunteer fire department.

16              Sec. 23.002. DISCRIMINATION PROHIBITED. Except as provided  
17      by this chapter, an employer may not terminate or suspend the  
18      employment of, or in any other manner discriminate against, an  
19      employee who is a volunteer emergency responder and who is absent  
20      from or late to the employee's employment because the employee is  
21      responding to an emergency in the employee's capacity as a  
22      volunteer emergency responder.

23              Sec. 23.003. EXCEPTION FOR CERTAIN SMALL EMPLOYERS. (a)  
24      Except as provided by Subsection (b), this chapter does not apply to  
25      an employer for whom an absence to respond to an emergency by an  
26      employee who is a volunteer emergency responder would result in  
27      hardship by reducing the employer's workforce by 50 percent.

1        (b) An employer described by Subsection (a) may permit an  
2 employee to provide services as a volunteer emergency responder.  
3 An employer who elects under this subsection to permit an employee  
4 to provide services as a volunteer responder is subject to this  
5 chapter.

6        Sec. 23.004. NOTICE TO EMPLOYER. An employee who is a  
7 volunteer emergency responder and who may be absent from or late to  
8 employment because the employee is responding to an emergency as a  
9 volunteer emergency responder shall make a reasonable effort to  
10 notify the employer that the employee may be absent or late. If the  
11 employee is unable to provide the notice due to the extreme  
12 circumstances of the emergency or inability to contact the  
13 employer, the employee shall submit to the employer, on the  
14 employer's request, a written verification of participation in an  
15 emergency activity that:

16        (1) is signed by the supervisor, or the designee of the  
17 supervisor, of the entity for which the affected volunteer  
18 emergency responder provides services or the applicable emergency  
19 service organization; and

20        (2) states that the volunteer emergency responder  
21 responded to an emergency and provides the date and time of the  
22 emergency.

23        Sec. 23.005. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME.  
24        (a) An employer may reduce the wages otherwise owed to the employee  
25 for any pay period because the employee took time off during that  
26 pay period for an absence authorized by this chapter.

27        (b) In lieu of reducing an employee's wages under Subsection

1        (a), an employer may require an employee who is a volunteer  
2        emergency responder to use existing vacation leave time, personal  
3        leave time, or compensatory leave time for an absence authorized by  
4        this chapter, except as otherwise provided by a collective  
5        bargaining agreement.

6                (c) This section does not affect an employee's right to  
7        wages or leave time under Section 661.905, Government Code.

8                Sec. 23.006. LIABILITY; REINSTATEMENT. An employee whose  
9        employment is suspended or terminated in violation of this chapter  
10        is entitled to:

11                (1) reinstatement to the employee's former position or  
12        a position that is comparable in terms of compensation, benefits,  
13        and other conditions of employment;

14                (2) compensation for wages lost during the period of  
15        suspension or termination; and

16                (3) reinstatement of any fringe benefits and seniority  
17        rights lost because of the suspension or termination.

18                Sec. 23.007. CIVIL ACTION. (a) An employee whose employer  
19        violates this chapter may bring a civil action against the employer  
20        to enforce rights protected by this chapter.

21                (b) An action under this section must be brought in the  
22        county in which the place of employment is located not later than  
23        the first anniversary of the date of the violation.

24                SECTION 2. Chapter 23, Labor Code, as added by this Act,  
25        applies only to a cause of action that accrues on or after the  
26        effective date of this Act. An action that accrued before the  
27        effective date of this Act is governed by the law applicable to the

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1 action immediately before the effective date of this Act, and that  
2 law is continued in effect for that purpose.

3 SECTION 3. This Act takes effect September 1, 2007.