

CHAPTER 109

LABOR & INDUSTRY

SENATE BILL 08-116

BY SENATOR(S) Kester, Gibbs, Boyd, Gordon, Groff, Isgar, Morse, Penry, Shaffer, Spence, Taylor, Tochtrop, Tupa, Wiens, Williams, and Windels;
 also REPRESENTATIVE(S) Looper, Balmer, Curry, Gallegos, Labuda, Massey, Rose, Scanlan, Soper, Summers, Weissmann, White, Witwer, Borodkin, Buescher, Carroll T., Frangas, Gagliardi, Garza-Hicks, Green, Hodge, Kerr A., Kerr J., Lambert, Levy, Liston, Madden, Marostica, Marshall, Merrifield, Mitchell V., Peniston, Primavera, Rice, Roberts, Stafford, Stephens, and Todd.

AN ACT

CONCERNING A REQUIREMENT THAT EMPLOYERS ALLOW EMPLOYEES WHO ARE VOLUNTEER FIREFIGHTERS TO LEAVE WORK TO RESPOND TO AN EMERGENCY SUMMONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that communities in Colorado periodically face fires and other emergencies that threaten the health, safety, and welfare of their citizens. The general assembly recognizes that it is imperative to maintain a robust network of trained firefighters to respond to these fires and emergencies efficiently and capably.

(2) The general assembly further finds that, as a result of the sometimes immensely destructive and uncontrollable nature of these fires, the difficulty in containing fires owing to unusually arid and windy conditions, and shortages in state resources, many communities rely on volunteers to assist in fighting fires. These communities also depend on volunteer firefighters to respond to a host of other emergencies.

(3) The general assembly further finds that current statutory law provides job protection for volunteer firefighters who are absent from work due to responding to emergencies, yet is silent on whether such firefighters should be permitted to leave work subsequent to arriving. While many employers, commendably, permit employees who are volunteer firefighters to leave work in order to respond to an emergency summons, some employers do not so allow.

(4) It is therefore the intent of the general assembly in enacting this act to provide

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

job security for employees working for large employers when those employees leave work to respond to emergency summonses in their capacities as trained and certified volunteer firefighters.

SECTION 2. 31-30-1131, Colorado Revised Statutes, is amended to read:

31-30-1131. Volunteer firefighter - employment termination restricted.

(1) An employer shall not terminate an employee who is a volunteer firefighter and who fails to report to work because the employee has responded to an emergency summons if the employee provides the employer with a written statement from the chief of the fire department that the employee's absence was due to the response.

(1.5) AN EMPLOYER SHALL NOT TERMINATE AN EMPLOYEE WHO IS A VOLUNTEER FIREFIGHTER AND WHO LEAVES WORK TO RESPOND TO AN EMERGENCY SUMMONS, IF:

(a) THE EMPLOYER DOES NOT DEEM THE EMPLOYEE TO BE ESSENTIAL TO THE OPERATION OF THE EMPLOYER'S DAILY ENTERPRISE;

(b) THE EMPLOYER HAS PREVIOUSLY RECEIVED WRITTEN DOCUMENTATION FROM THE FIRE CHIEF OF THE EMPLOYEE'S FIRE DEPARTMENT NOTIFYING THE EMPLOYER OF THE EMPLOYEE'S STATUS AS A VOLUNTEER FIREFIGHTER;

(c) THE EMERGENCY IS WITHIN THE RESPONSE AREA OF THE EMPLOYEE'S FIRE DEPARTMENT AND IS OF SUCH MAGNITUDE THAT THE EMERGENCY SUMMONS ISSUED BY THE FIRE CHIEF REQUIRES ALL FIREFIGHTERS TO RESPOND; AND

(d) THE CHIEF OF THE EMPLOYEE'S FIRE DEPARTMENT PROVIDES THE EMPLOYER WITH A WRITTEN STATEMENT VERIFYING THE TIME, DATE, AND DURATION OF THE EMPLOYEE'S RESPONSE.

(2) An employer may deduct time lost from employment caused by a response to an emergency summons from the wages of an employee who is a volunteer firefighter.

(3) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, IF A VOLUNTEER FIREFIGHTER IS CALLED TO AN EMERGENCY PURSUANT TO PART 22 OF ARTICLE 32 OF TITLE 24, C.R.S., THE PROVISIONS OF SECTION 24-32-2225 OR 24-32-2226, C.R.S., SHALL CONTROL REGARDING THE VOLUNTEER FIREFIGHTERS ABSENCE OR LEAVE FROM WORK. UNDER NO CIRCUMSTANCES SHALL A VOLUNTEER FIREFIGHTER'S LEAVE EXCEED THE AMOUNT ALLOWED PURSUANT TO SECTION 24-32-2225 OR 24-32-2226, C.R.S.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 8, 2008