

State of Wisconsin



2009 Senate Bill 308

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2009 WISCONSIN ACT 140

AN ACT to create 103.88, 106.54 (8) and 111.91 (2) (gr) of the statutes; **relating to:** a requirement that an employer permit an employee who is a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver for a volunteer fire department or fire company, a public agency, or a nonprofit corporation to be late for or absent from work if the lateness or absence is due to the employee responding to an emergency that begins before the employee is required to report to work.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 103.88 of the statutes is created to read:

103.88 Absence from work of volunteer fire fighter, emergency medical technician, first responder, or ambulance driver. (1) **DEFINITIONS.** In this section:

(a) "Ambulance service provider" means an ambulance service provider, as defined in s. 256.01 (3), that is a volunteer fire department or fire company, a public agency, or a nonprofit corporation.

(b) "Emergency" means a fire, hazardous substance release, medical condition, or any other situation that poses a clear and immediate danger to life or health or a significant loss of property.

(c) "Emergency medical technician" has the meaning given in s. 256.01 (5).

(d) "Employee" means an individual employed in this state by an employer, but does not include an individual employed to provide direct patient care at a hospital intensive care unit or emergency department, as defined in s. 940.20 (7) (a) 1g.

(e) "Employer" means a person engaging in any activity, enterprise, or business in this state. "Employer"

includes the state and any office, department, independent agency, authority, institution, association, society, or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts. "Employer" does not include a paid fire department or an ambulance service provider, as defined in s. 256.01 (3).

(f) "First responder" has the meaning given in s. 256.01 (9).

(g) "Nonprofit corporation" has the meaning given in s. 256.01 (12).

(h) "Public agency" has the meaning given in s. 256.15 (1) (n).

(i) "Responding to an emergency" includes going to, attending to, and returning from an emergency.

(2) ABSENCE FROM WORK PERMITTED. An employer shall permit an employee who is a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver for a volunteer fire department or fire company, a public agency, or a nonprofit corporation to be late for or absent from work if the lateness or absence is due to the employee responding to an emergency that begins before the employee is required to report to work and if the employee complies with sub. (3) (a). This subsection does not entitle an employee to receive wages or

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

salary for the time the employee is absent from work due to responding to an emergency as provided in this subsection.

(3) RESPONSIBILITIES OF EMPLOYEE. (a) An employee may be late for or absent from work under sub. (2) if the employee does all of the following:

1. By no later than 30 days after becoming a member of a volunteer fire department or fire company or becoming affiliated with an ambulance service provider, submits to the employee's employer a written statement signed by the chief of the volunteer fire department or fire company or by the person in charge of the ambulance service provider notifying the employer that the employee is a volunteer fire fighter, emergency medical technician, first responder, or ambulance driver for a volunteer fire department or fire company, a public agency, or a non-profit corporation.

2. When dispatched to an emergency, makes every effort to notify the employee's employer that the employee may be late for or absent from work due to the employee's responding to the emergency or, if prior notification cannot be made due to the extreme circumstances of the emergency or the inability of the employee to contact the employer, submits to the employer a written statement from the chief of the volunteer fire department or fire company or from the person in charge of the ambulance service provider explaining why prior notification could not be made.

3. When late for or absent from work due to responding to an emergency, provides, on the request of the employee's employer, a written statement from the chief of the volunteer fire department or fire company or from the person in charge of the ambulance service provider certifying that the employee was responding to an emergency at the time of the lateness or absence and indicating the date and time of the response to the emergency.

(b) When the status of an employee under sub. (2) as a member of a volunteer fire department or fire company or as an affiliate of an ambulance service provider changes, including termination of that status, the employee shall notify the employee's employer of that change in status.

(4) PROHIBITED ACTS. (a) No person may interfere with, restrain, or deny the exercise of the right of an employee to respond to an emergency as provided in sub. (2).

(b) No person may discharge or discriminate against an employee in promotion, in compensation, or in the terms, conditions, or privileges of employment for responding to an emergency as provided in sub. (2), opposing a practice prohibited under this section, filing a complaint or attempting to enforce any right under this section, or testifying or assisting in any action or proceeding to enforce any right under this section.

(5) ENFORCEMENT. An employee whose right to respond to an emergency under sub. (2) is interfered with, restrained, or denied in violation of sub. (4) (a) or who is discharged or discriminated against in violation of sub. (4) (b) may file a complaint with the department, and the department shall process the complaint in the same manner that employment discrimination complaints are processed under s. 111.39. If the department finds that an employer has violated sub. (4) (a) or (b), it may order the employer to take action to remedy the violation, including reinstating the employee, providing compensation in lieu of reinstatement, providing back pay accrued not more than 2 years before the complaint was filed, and paying reasonable actual costs and attorney fees to the complainant.

SECTION 2. 106.54 (8) of the statutes is created to read:

106.54 (8) The division shall receive complaints under s. 103.88 (5) and shall process the complaints in the same manner that employment discrimination complaints are processed under s. 111.39.

SECTION 3. 111.91 (2) (gr) of the statutes is created to read:

111.91 (2) (gr) The right of an employee, as defined in s. 103.88 (1) (d), who is a fire fighter, emergency medical technician, first responder, or ambulance driver for a volunteer fire department or fire company, a public agency, as defined in s. 256.15 (1) (n), or a nonprofit corporation, as defined in s. 256.01 (12), to respond to an emergency as provided under s. 103.88 (2).

SECTION 4. Initial applicability.

(1) This act first applies to an employee who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.