

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 733

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO VOLUNTEER EMERGENCY RESPONSE PERSONNEL; PROTECTING  
EMERGENCY RESPONSE PERSONNEL EMPLOYMENT SECURITY; PROVIDING FOR  
REMEDIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. EMPLOYERS PROHIBITED FROM DISCHARGING  
EMPLOYEES FOR TIME LOST AS VOLUNTEER FIREFIGHTERS--REMEDIES.--

A. An employer shall not terminate an employee for  
time lost from employment if the employee is a member of a  
volunteer fire department and the time lost is the result of  
the employee responding to an emergency prior to the time the  
employee is due to report for work. Time lost from employment  
as provided in this section may be charged against the  
employee's regular pay. At the request of an employer, an  
employee losing time as provided in this section shall provide

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underscoring material = new  
[bracketed material] = delete

1 the employer with a statement from the chief of the fire  
2 department stating that the employee responded to an emergency  
3 and giving the time of the emergency. Such time lost from  
4 employment shall not exceed an aggregate of eighty hours per  
5 calendar year.

6 B. As used in this section, "emergency" means a  
7 fire, a hazardous or toxic materials spill and cleanup or any  
8 other situation to which the volunteer firefighter or the  
9 volunteer firefighter's fire department is dispatched, which  
10 emergency is within the legal response area of the department.

11 C. An employer who knowingly violates the  
12 provisions of this section shall reinstate the employee to the  
13 employee's former position and shall pay that employee all lost  
14 wages and benefits for the period between termination and  
15 reinstatement. An action to enforce the provisions of this  
16 section shall be commenced within one year after the date of  
17 violation in the district court of the county where the place  
18 of employment is located.

19 Section 2. EMPLOYERS PROHIBITED FROM DISCHARGING  
20 EMPLOYEES FOR TIME LOST AS VOLUNTEER EMERGENCY MEDICAL SERVICE  
21 PERSONNEL--REMEDIES.--

22 A. An employer shall not terminate an employee for  
23 time lost from employment if the employee is a member of a  
24 volunteer emergency medical service provider and the time lost  
25 is the result of the employee responding to an emergency prior

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1 to the time the employee is due to report for work. Time lost  
2 from employment as provided in this section may be charged  
3 against the employee's regular pay. At the request of an  
4 employer, an employee losing time as provided in this section  
5 shall provide the employer with a statement from the chief of  
6 the fire department or service stating that the employee  
7 responded to an emergency and giving the time of the emergency.  
8 Such time lost from employment shall not exceed an aggregate of  
9 eighty hours per calendar year.

10 B. As used in this section, "emergency" means an  
11 actual medical emergency involving an imminent loss of life to  
12 which a volunteer emergency medical service provider responds,  
13 which emergency is within the legal response area of the  
14 department.

15 C. An employer who knowingly violates the  
16 provisions of this section shall be required to reinstate the  
17 employee to the employee's former position and shall pay that  
18 employee all lost wages and benefits for the period between  
19 termination and reinstatement. An action to enforce the  
20 provisions of this section shall be commenced within one year  
21 after the date of violation in the district court of the county  
22 where the place of employment is located.

23 Section 3. TEMPORARY LEAVES OF ABSENCE FOR VOLUNTEER  
24 EMERGENCY RESPONSE PERSONNEL--REMEDIES.--

25 A. An employee who is a volunteer firefighter or

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1 emergency medical service provider may take temporary leaves of  
2 absence, without pay, not to exceed an aggregate of seven days  
3 per calendar year, for the purpose of engaging in fire or  
4 emergency medical service training. Temporary leaves of  
5 absence pursuant to this section are subject to approval in  
6 advance by the employer.

7 B. An employee who is discharged, threatened with  
8 discharge, demoted, suspended or in any other manner  
9 discriminated against in the terms and conditions of employment  
10 by an employer because the employee has taken time off to  
11 engage in fire or emergency medical service training is  
12 entitled to reinstatement and reimbursement for lost wages and  
13 work benefits caused by the acts of the employer. An action to  
14 enforce the provisions of this section shall be commenced  
15 within one year after the date of violation in the district  
16 court of the county where the place of employment is located.