

By: Kuempel

H.B. No. 701

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a prohibition of certain employment discrimination
3 regarding an employee who is a volunteer member of an emergency
4 service organization.

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

6 SECTION 1. Subtitle A, Title 2, Labor Code, is amended by
7 adding Chapter 25 to read as follows:

8 CHAPTER 25. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER MEMBERS
9 OF EMERGENCY SERVICE ORGANIZATIONS

10 Sec. 25.001. DEFINITIONS. In this chapter:

11 (1) "Emergency service organization" means any entity
12 established to provide for the public:

13 (A) fire prevention and suppression;

14 (B) hazardous materials response operations; or

15 (C) emergency medical services.

16 (2) "Employee" means an individual who is employed by
17 an employer for compensation.

18 (3) "Employer" means a person who employs one or more
19 employees. The term includes the state or a political subdivision
20 of the state.

21 (4) "Political subdivision" means a county,
22 municipality, special district, or authority of this state.

23 (5) "Volunteer member" means an individual who is
24 carried on the membership list of an emergency service organization

1 as an active participant but who does not receive compensation for
2 the individual's services.

3 Sec. 25.002. DISCRIMINATION PROHIBITED. Except as
4 provided by this chapter, an employer may not terminate or suspend
5 the employment of, or in any other manner discriminate against, an
6 employee who is:

7 (1) a volunteer member of an emergency service
8 organization; and

9 (2) absent from employment or late to the employee's
10 employment because the employee is responding to an emergency in
11 the employee's capacity as a volunteer member.

12 Sec. 25.003. NOTICE TO EMPLOYER. An employee who is a
13 volunteer member and who may be absent from or late to employment to
14 perform duties as a volunteer member shall make a reasonable effort
15 to notify the employer that the volunteer member may be absent or
16 late.

17 Sec. 25.004. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME.

18 (a) An employer may reduce the wages otherwise owed to the employee
19 for any pay period because the employee took time off during that
20 pay period for an absence authorized by this chapter.

21 (b) In lieu of reducing an employee's wages under Subsection
22 (a), an employer may require an employee who is a volunteer member
23 to use existing vacation leave time, personal leave time, or
24 compensatory leave time for an absence authorized by this chapter,
25 except as otherwise provided by a collective bargaining agreement.

26 Sec. 25.005. DOCUMENTATION. (a) For purposes of this
27 section, "documentation" means a written verification of

1 participation in an activity of an emergency service organization
2 that:

3 (1) is signed by the supervisor, or the designee of the
4 supervisor, of the emergency service organization; and

5 (2) states that the employee responded to an emergency
6 and provides the date and time of the emergency.

7 (b) An employer may require an employee to provide
8 documentation to the employer of the employee's participation in a
9 particular activity of an emergency service organization.

10 Sec. 25.006. LIABILITY; REINSTATEMENT. An employee whose
11 employment is suspended or terminated in violation of this chapter
12 is entitled to:

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

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

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

20 Sec. 25.007. CIVIL ACTION. (a) An employee whose employer
21 violates this chapter may bring a civil action against the employer
22 to enforce rights protected by this chapter.

23 (b) An action under this section must be brought not later
24 than the first anniversary of the date of the violation.

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

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

4 SECTION 3. This Act takes effect September 1, 2005.