

1-1 By: Keffer, et al. (Senate Sponsor - Eltife) H.B. No. 1205  
1-2 (In the Senate - Received from the House May 14, 2007;  
1-3 May 15, 2007, read first time and referred to Committee on Business  
1-4 and Commerce; May 19, 2007, reported favorably, as amended, by the  
1-5 following vote: Yeas 6, Nays 0; May 19, 2007, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Watson

1-7 Amend Committee Substitute to House Bill 1205 (engrossed version)  
1-8 as follows:

1-9 1) On Page 1, Line 41, in between "a" and "fire" add the  
1-10 following: "proclamation declaring a state of disaster by the  
1-11 Governor of Texas or the President of the United States that  
1-12 includes a".

1-13 2) On page 3, lines 26-28, amend Subsection (b) as follows:  
1-14 "(b) An action under this section must be brought in the  
1-15 county in which the place of employment is located not later than  
1-16 the 15th business day after~~[first anniversary of]~~ the date of the  
1-17 violation."

1-18 COMMITTEE AMENDMENT NO. 2 By: Watson

1-19 Amend HB 1205 on page 3 as follows, Sec. 23.003. EXCEPTION FOR  
1-20 CERTAIN SMALL EMPLOYERS. (a) Except as provided by Subsection  
1-21 (b), this chapter does not apply to an employer for whom an absence  
1-22 to respond to an emergency by an employee who is a volunteer  
1-23 emergency responder would result in hardship by reducing the  
1-24 employer's workforce by 50 percent.

1-25 (b) An employer described by Subsection (a) may permit an  
1-26 employee to provide services as a volunteer emergency responder.  
1-27 An employer who elects under this subsection to permit an employee  
1-28 to provide services as a volunteer responder is subject to this  
1-29 chapter. This chapter does not apply to employers with fewer than  
1-30 50 employees.

1-31 A BILL TO BE ENTITLED  
1-32 AN ACT

1-33 relating to the prohibition of certain employment discrimination  
1-34 regarding an employee who is a volunteer emergency responder.

1-35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-36 SECTION 1. Subtitle A, Title 2, Labor Code, is amended by  
1-37 adding Chapter 23 to read as follows:

1-38 CHAPTER 23. EMPLOYMENT DISCRIMINATION REGARDING  
1-39 VOLUNTEER EMERGENCY RESPONDERS

1-40 Sec. 23.001. DEFINITIONS. In this chapter:

1-41 (1) "Emergency" includes a fire, hazardous or toxic  
1-42 materials spill and cleanup, medical emergency, or other situation  
1-43 that poses an imminent threat of loss of life or property to which a  
1-44 fire department or provider of emergency medical services has been  
1-45 or later could be dispatched.

1-46 (2) "Emergency medical services" has the meaning  
1-47 assigned by Chapter 773, Health and Safety Code.

1-48 (3) "Emergency medical services volunteer" has the  
1-49 meaning assigned by Section 773.003(13), Health and Safety Code.

1-50 (4) "Emergency service organization" means any entity  
1-51 established to provide for the public:

1-52 (A) fire prevention and suppression;

1-53 (B) hazardous materials response operations; or

1-54 (C) emergency medical services.

1-55 (5) "Employee" means an individual who is employed by  
1-56 an employer for compensation.

1-57 (6) "Employer" means a person who employs one or more  
1-58 employees. The term includes the state or a political subdivision  
1-59 of the state.

1-60 (7) "Political subdivision" means a county,

2-1 municipality, special district, or authority of this state.

2-2 (8) "Volunteer emergency responder" means an  
 2-3 individual who is an active participant in an emergency service  
 2-4 organization but who does not receive compensation for the  
 2-5 individual's services. The term includes an emergency medical  
 2-6 services volunteer and a volunteer firefighter.

2-7 (9) "Volunteer fire department" has the meaning  
 2-8 assigned by Section 614.101, Government Code.

2-9 (10) "Volunteer firefighter" means an individual who  
 2-10 is a member of a volunteer fire department.

2-11 Sec. 23.002. DISCRIMINATION PROHIBITED; LIMITATION. (a)  
 2-12 Except as provided by this chapter, an employer may not terminate or  
 2-13 suspend the employment of, or in any other manner discriminate  
 2-14 against, an employee who is a volunteer emergency responder and who  
 2-15 is absent from or late to the employee's employment because the  
 2-16 employee is responding to an emergency in the employee's capacity  
 2-17 as a volunteer emergency responder.

2-18 (b) Notwithstanding Subsection (a), an employee who is a  
 2-19 volunteer emergency responder is not entitled under this chapter to  
 2-20 be absent from the employee's employment for more than 14 days in a  
 2-21 calendar year unless the employee's absence is approved by the  
 2-22 employer.

2-23 Sec. 23.003. EXCEPTION FOR CERTAIN SMALL EMPLOYERS. (a)  
 2-24 Except as provided by Subsection (b), this chapter does not apply to  
 2-25 an employer for whom an absence to respond to an emergency by an  
 2-26 employee who is a volunteer emergency responder would result in  
 2-27 hardship by reducing the employer's workforce by 50 percent.

2-28 (b) An employer described by Subsection (a) may permit an  
 2-29 employee to provide services as a volunteer emergency responder.  
 2-30 An employer who elects under this subsection to permit an employee  
 2-31 to provide services as a volunteer responder is subject to this  
 2-32 chapter.

2-33 Sec. 23.004. EXCEPTION FOR CERTAIN CRITICAL EMPLOYEES. (a)  
 2-34 In this section, "critical employee" means an individual:

2-35 (1) employed as a peace officer, firefighter,  
 2-36 emergency medical services personnel member, or dispatcher for law  
 2-37 enforcement, firefighters, or emergency medical services  
 2-38 personnel; or

2-39 (2) whose presence is required in order to continue  
 2-40 the essential functions of the employer, the absence of which could  
 2-41 cause substantial and grievous economic injury, severely  
 2-42 compromise the ability of the employer to accomplish mission  
 2-43 critical functions, or jeopardize the safety and well-being of  
 2-44 others.

2-45 (b) Except as provided by Subsection (c), this chapter does  
 2-46 not apply to an employee who is a critical employee of the  
 2-47 employee's employer.

2-48 (c) An employer may permit a critical employee to provide  
 2-49 services as a volunteer emergency responder. An employer who  
 2-50 elects under this subsection to permit a critical employee to  
 2-51 provide services as a volunteer emergency responder is subject to  
 2-52 this chapter.

2-53 Sec. 23.005. NOTICE TO EMPLOYER. An employee who is a  
 2-54 volunteer emergency responder and who may be absent from or late to  
 2-55 employment because the employee is responding to an emergency as a  
 2-56 volunteer emergency responder shall make a reasonable effort to  
 2-57 notify the employer that the employee may be absent or late. If the  
 2-58 employee is unable to provide the notice due to the extreme  
 2-59 circumstances of the emergency or inability to contact the  
 2-60 employer, the employee shall submit to the employer, on the  
 2-61 employer's request, a written verification of participation in an  
 2-62 emergency activity that:

2-63 (1) is signed by the supervisor, or the designee of the  
 2-64 supervisor, of the entity for which the affected volunteer  
 2-65 emergency responder provides services or the applicable emergency  
 2-66 service organization; and

2-67 (2) states that the volunteer emergency responder  
 2-68 responded to an emergency and provides the date and time of the  
 2-69 emergency.

3-1 Sec. 23.006. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME.  
3-2 (a) An employer may reduce the wages otherwise owed to the employee  
3-3 for any pay period because the employee took time off during that  
3-4 pay period for an absence authorized by this chapter.

3-5 (b) In lieu of reducing an employee's wages under Subsection  
3-6 (a), an employer may require an employee who is a volunteer  
3-7 emergency responder to use existing vacation leave time, personal  
3-8 leave time, or compensatory leave time for an absence authorized by  
3-9 this chapter, except as otherwise provided by a collective  
3-10 bargaining agreement.

3-11 (c) This section does not affect an employee's right to  
3-12 wages or leave time under Section 661.905, Government Code.

3-13 Sec. 23.007. LIABILITY; REINSTATEMENT. An employee whose  
3-14 employment is suspended or terminated in violation of this chapter  
3-15 is entitled to:

3-16 (1) reinstatement to the employee's former position or  
3-17 a position that is comparable in terms of compensation, benefits,  
3-18 and other conditions of employment;

3-19 (2) compensation for wages lost during the period of  
3-20 suspension or termination; and

3-21 (3) reinstatement of any fringe benefits and seniority  
3-22 rights lost because of the suspension or termination.

3-23 Sec. 23.008. CIVIL ACTION. (a) An employee whose employer  
3-24 violates this chapter may bring a civil action against the employer  
3-25 to enforce rights protected by this chapter.

3-26 (b) An action under this section must be brought in the  
3-27 county in which the place of employment is located not later than  
3-28 the first anniversary of the date of the violation.

3-29 SECTION 2. Chapter 23, Labor Code, as added by this Act,  
3-30 applies only to a cause of action that accrues on or after the  
3-31 effective date of this Act. An action that accrued before the  
3-32 effective date of this Act is governed by the law applicable to the  
3-33 action immediately before the effective date of this Act, and that  
3-34 law is continued in effect for that purpose.

3-35 SECTION 3. This Act takes effect September 1, 2007.

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