

CHAPTER 180  
FORMERLY  
HOUSE BILL NO. 21  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE VOLUNTEER EMERGENCY RESPONDERS JOB PROTECTION ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 19 of the Delaware Code by making insertions as shown by underlining as follows:

Chapter 19. Volunteer Emergency Responders Job Protection Act

§ 1901. Short title.

This chapter may be known and cited as the "Volunteer Emergency Responders Job Protection Act."

§ 1902. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Employer" means any person employing ten or more employees; and

(2) "Volunteer emergency responder" means a volunteer firefighter, a member of a ladies auxiliary of a volunteer fire company, volunteer emergency medical technician and/or a volunteer fire police officer.

§ 1903. Employer; prohibited acts.

(a) No employer shall terminate, demote or take any other disciplinary action against any employee who is a volunteer emergency responder if:

(1) such employee, when acting as a volunteer emergency responder, is absent from his or her place of employment in order to respond to a Governor-declared State of Emergency lasting up to 7 consecutive days; or

(2) such employee, when acting as a volunteer emergency responder, is absent from his or her place of employment in order to respond to a President-declared National Emergency lasting up to 14 consecutive days; or

(3) such employee is absent from his or her place of employment due to injury sustained by such employee when acting as a volunteer emergency responder including responding to an emergency.

(b) Paragraphs (a)(1) and (a)(2) shall not apply to:

(1) essential state employees;

(2) members of the armed forces;

(3) members of the National Guard;

(4) employees of a hospital licensed pursuant to Chapter 10 of Title 16; and

(5) employees of Public Utilities or providers of Voice Over IP service or cellular telephone service who are necessary to maintain the integrity of networks, facilities or assist first responders.

§ 1904. Employer; adjustments to wages authorized.

An employer may subtract from an employee's earned wages any time such employee is away from his or her place of employment for reason described in § 1903 of this Act.

§ 1905. Employee; duty to notify employer.

An employee shall notify his or her employer, in accordance with the existing policies of the employer if such policy exists, that he or she may be absent from his or her place of employment upon the occurrence of an event described in § 1903 of this Act.

§ 1906. Employee; provide written statement; contents.

(a) At an employer's request, an employee, acting as a volunteer emergency responder, who is absent from his or her place of employment in order to respond to an emergency shall provide his or her employer, within seven days of such request, a written statement signed by the individual in charge of the volunteer department or another individual authorized to act for such individual that includes the following: That the employee responded to an emergency; the date and time of the emergency; and the date and time such employee completed his or her volunteer emergency activities.

(b) At an employer's request, an employee, who is absent from his or her place of employment due to injury sustained by such employee while responding to an emergency shall provide his or her employer, within five days of

such request, a written statement signed by the relevant medical professional or another individual authorized to act for such medical professional that includes the following: That the employee was seen by such medical professional, the date the employee was seen by such medical professional, and the estimated period of partial or total incapacity to perform the employee's job.

§ 1907. Wrongful termination of employment or disciplinary action; reinstatement; action to enforce act.

An employee who is terminated or against whom any disciplinary action is taken in violation of this Act shall be immediately reinstated to his or her former position, if wrongfully terminated, without reduction of wages, seniority, or other benefits and shall receive any lost wages or other benefits, if applicable, during any period for which such termination or other disciplinary action was in effect. An action to enforce this Act may be brought by the employee to recover any lost wages or other benefits, including court costs and reasonable attorney's fees in Superior Court. An action to enforce this Act shall be commenced within one year after the date of violation.

§ 1908. Substantially similar employment policies.

The provisions of this chapter shall not apply to an employer if such employer has substantially similar policies or rules that provide the same or substantially similar protections as are afforded in this chapter to an employee and provides the opportunity to appeal a decision to a court within the State of Delaware.

Approved September 06, 2013