

HB 2629

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

HOUSE BILL No. 2629

(By Delegate Caputo, Kuhn, Sparks, Linch,  
Prunty, Fleischauer and Fragale )



Passed April 12, 1997

In Effect Ninety Days From Passage

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**H. B. 2629**

(BY DELEGATES CAPUTO, KUHN, SPARKS, LINCH,  
PRUNTY, FLEISCHAUER AND FRAGALE)

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[Passed April 12, 1997; in effect ninety days from passage.]

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AN ACT to amend and reenact section seventeen, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to time lost as volunteer firemen and permitting the volunteer firemen to choose whether lost time as volunteer firemen is subtracted from regular pay or accumulated annual leave at the option of the employee.

*Be it enacted by the Legislature of West Virginia:*

That section seventeen, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. WAGE PAYMENT AND COLLECTION.**

**§21-5-17. Employers prohibited from discharging employees for time lost as volunteer firemen.**

1 No employer may terminate an employee who is a  
2 member of a volunteer fire department and who, in the  
3 line of emergency duty as a volunteer fireman, responds  
4 to an emergency call prior to the time he is due to report  
5 for work and which emergency results in a loss of time  
6 from his employment.

7 Any time lost from employment as provided in this  
8 section may be charged against the employee's regular

9 pay or against the employee's accumulated leave, if any,  
10 at the option of the employee.

11 At the request of an employer, any employee losing  
12 time as provided herein shall supply his employer with a  
13 statement from the chief of the volunteer fire department  
14 stating that the employee responded to an emergency call  
15 and the time thereof.

16 As used in this section, "emergency" shall mean  
17 going to, attending to or coming from (1) a fire call, (2) a  
18 hazardous or toxic materials spill and cleanup, or (3) any  
19 other situation to which his or her fire department has  
20 been or later could be dispatched. The term "employer"  
21 includes any individual, partnership, association, corpora-  
22 tion, business trust or any person or group of persons  
23 acting directly or indirectly in the interest of an employer  
24 in relation to any employee.

25 Any employer who willfully and knowingly violates  
26 the provisions of this section shall be required to reinstate  
27 such employee to his former position and shall be re-  
28 quired to pay such employee all lost wages and benefits  
29 for the period between termination and reinstatement.  
30 Any action to enforce the provisions of this section shall  
31 be commenced within a period of one year after the date  
32 of violation and such action shall be commenced in the  
33 circuit court of the county wherein the place of employ-  
34 ment is located.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Randy Adornov*  
\_\_\_\_\_  
Chairman Senate Committee

*Nick Tentasia*  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Carroll Adams*  
\_\_\_\_\_  
Clerk of the Senate

*Gregory M. Gray*  
\_\_\_\_\_  
Clerk of the House of Delegates

*Carl Ray Tomlin*  
\_\_\_\_\_  
President of the Senate

*[Signature]*  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 18  
day of May, 1997.

*[Signature]*  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/25/97

Time 2:01 pm