

FINAL BILL REPORT

ESHB 1420

C 173 L 01

Synopsis as Enacted

Brief Description: Prohibiting discrimination against volunteer fire fighters.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Hurst, Roach, Dunshee, Lovick, Woods, Jackley, Mielke, Wood, Carrell, Cooper, Sump, Hatfield, Pflug, Haigh, Conway, Reardon, Morris, Edmonds, Ruderman, O'Brien, Voloria, Poulsen, Morell, Kenney, Bush, Anderson, Cody, Santos, Rockefeller and Kessler).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background:

In Washington, the general rule is that employment is "terminable at-will." In other words, an employer may discharge an employee at any time without cause, and an employee may quit employment at any time without cause. Similarly, an employer may take other employment action that he or she deems appropriate.

Wrongful Discharge: Exceptions to the general rule that employment is "terminable at-will" have been enacted by Congress and the Legislature and recognized by Washington courts. For example, an employer may not discharge an employee for exercising rights under certain federal and state laws (e.g., the federal Family and Medical Leave Act (FMLA) and the state Minimum Wage Act). An employer also may not discharge an employee because he or she is a member of a protected class under the Washington Law Against Discrimination or other anti-discrimination laws. An employer may be liable for wrongful discharge for terminating an employee because he or she refused to commit an illegal act or because he or she performed a public duty.

Wrongful Disciplinary Action: Exceptions to the general rule that an employer may take other employment action that he or she deems appropriate also have been enacted by Congress and the Legislature. For example, an employer may not use the taking of FMLA-leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions. An employer also may not discriminate against a person in compensation or in other terms or conditions of employment because he or she is a member of a protected class under anti-discrimination laws.

Summary:

An employer is prohibited from discharging or disciplining a volunteer fire fighter because of leave related to an alarm of fire or an emergency call, but not leave related to training or other nonemergency activities. These protections apply only to a volunteer fire fighter who is not at his or her place of employment when called to serve as a volunteer, and who has been ordered to remain at his or her position by the commanding authority at the scene.

A volunteer fire fighter who is discharged or disciplined because of such leave may file a complaint with the director of the Department of Labor and Industries within 90 days of the discharge or the disciplinary action. Upon receipt of a complaint, the director must investigate and determine whether the volunteer fire fighter was discharged or disciplined because of the leave. The director also must send a notice of his or her determination to the volunteer fire fighter and the employer within 90 days of receipt of the complaint. If the director determines that the volunteer fire fighter was discharged or disciplined because of the leave and the employer fails to reinstate the employee or withdraw the disciplinary action within 30 days of receipt of notice of the director's determination, the volunteer fire fighter may bring an action against the employer in superior court seeking reinstatement or withdrawal of the disciplinary action. Reinstatement or withdrawal of the disciplinary action must be with back pay, without loss of seniority or benefits, and with removal of any related adverse material from the volunteer fire fighter's personnel file.

An employer is a person who employed 20 or more full-time equivalent employees in the previous year.

Votes on Final Passage:

House 93 0
Senate 49 0 (Senate amended)
House (House refused to concur)
Senate (Senate receded)
Senate 44 3

Effective: July 22, 2001