

# MAINE STATE LEGISLATURE

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L.D. 1946

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MAJORITY  
LABOR

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1449, L.D. 1946, Bill, "An Act to Safeguard Volunteer Firefighters' Regular Employment"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 26 MRSA c. 7, sub-c. IV-C is enacted to read:

SUBCHAPTER IV-C

VOLUNTEER FIREFIGHTER; ABSENCE FROM WORK

§809. Absence for emergency response

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employer" means any private or public employer, including the State and political subdivisions of the State;

B. "Responding to an emergency" means responding to, working at the scene of or returning from a fire call, hazardous or toxic materials spill and cleanup or any other situation to which the fire department has been dispatched; and

C. "Volunteer firefighter" has the same meaning as in Title 30-A, section 3151.

2. Prohibition against discharge or disciplinary action. An employer may not discharge or take any other disciplinary

**COMMITTEE AMENDMENT**

2 action against an employee because of the employee's failure to  
3 report for work at the beginning of the employee's regular  
4 working hours if the employee failed to do so because the  
5 employee was responding to an emergency in the employee's  
6 capacity as a volunteer firefighter. An employer may charge the  
7 lost time against the employee's regular pay. This subsection  
8 does not apply to the absence of a volunteer firefighter from the  
9 employee's regular employment as a law enforcement officer,  
10 utility worker or medical personnel when the services of that  
11 person are essential to protect public health or safety.

12 **3. Verification required.** At the request of an employer,  
13 an employee losing work time as provided in subsection 2 shall  
14 provide the employer with a statement from the chief of the  
15 volunteer fire department stating that the employee was  
16 responding to an emergency call and the time of the call.

17 **4. Enforcement; penalty for violation.** If an employer has  
18 violated subsection 2, the employee may bring an action in  
19 Superior Court in the county in which the employee resides or in  
20 the county in which the employer's place of business is located.  
21 The action must be brought within one year of the date of the  
22 alleged violation. If the court finds that the employer violated  
23 subsection 2, and the employee requests, the court shall order  
24 the employer to reinstate the employee in the employee's former  
25 position without reduction of pay, seniority or other benefits.  
26 The court also shall order any other appropriate remedy necessary  
27 to return the employee to the position the employee would have  
28 been in had the employer not violated subsection 2, including  
29 payment of back pay and reinstatement of any other benefits lost  
30 during the period in which the discharge or disciplinary action  
31 was in effect.

32 **5. Impact on local agreements.** This section does not apply  
33 to an employer who is subject to a written agreement, signed by  
34 the employer and the local official in charge of calling out  
35 volunteer firefighters, that allows an employee of that employer  
36 to be absent from work while performing duties as a volunteer  
37 firefighter under specified conditions without being discharged  
38 or otherwise disciplined by the employer. The agreement may  
39 allow the employer to charge the lost time against the employee's  
40 pay.

41 **6. Review.** The joint standing committee of the Legislature  
42 having jurisdiction over labor matters shall review this section  
43 during the First Regular Session of the 122nd Legislature no  
44 later than March 15, 2005. The committee shall solicit comment  
45 on the impact and effect of the law from members of the public  
46 and interested parties, including the Maine Fire Protection  
47 Association.

2 Services Commission established in Title 5, section 3371. This  
3 subsection is repealed March 15, 2005.

4 **Sec. 2. Appropriations and allocations.** The following  
5 appropriations and allocations are made.

6 **LABOR, DEPARTMENT OF**

8 **Regulation and Enforcement**

10 Initiative: Appropriates funds for the printing and  
12 distribution of the Regulation of Employment poster.

14	<b>General Fund</b>	<b>2001-02</b>	<b>2002-03</b>
16	All Other	\$0	\$16,762'

18 Further amend the bill by inserting at the end before the  
19 summary the following:

20 **FISCAL NOTE**

22 **2002-03**

24 **APPROPRIATIONS/ALLOCATIONS**

26	General Fund	\$16,762
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30 This bill will require the revision of the Regulation of  
31 Employment poster by the Department of Labor, Bureau of Labor  
32 Standards. A General Fund appropriation of \$16,762 in fiscal  
33 year 2002-03 is required for printing and mailing costs. If  
34 other bills are enacted that also require changes to the poster,  
35 the cost properly allocated to this bill can be reduced.

36 This bill may increase the number of civil suits filed in  
37 the court system. The additional workload and administrative  
38 costs associated with the minimal number of new cases filed can  
39 be absorbed within the budgeted resources of the Judicial  
40 Department. The collection of additional filing fees may also  
41 increase General Fund revenue by minor amounts.

42 If enacted, this bill may add real and/or productivity  
43 expense to various state agencies. At the present time, it  
44 appears that state employees who are volunteer firefighters are  
45 allowed to charge accumulated annual leave or compensatory time,  
46 subject to operational need, to perform volunteer firefighting  
47 duties. If operational need were preempted by enactment of this  
48

2 bill, some state agencies may have to approve overtime pay in  
3 order to maintain proper service or not provide certain  
4 services. The real and/or productivity expense to state agencies  
5 can not be determined at this time; however, any such expense is  
6 expected to be minimal.'

8 **SUMMARY**

10 This amendment replaces the bill. It protects a volunteer  
11 firefighter from being discharged or disciplined by an employer  
12 on the grounds that the volunteer arrives late or does not arrive  
13 at work because the volunteer firefighter is responding to an  
14 emergency such as fires, hazardous or toxic waste spills or other  
15 situations to which the fire department is called to respond.  
16 The amendment allows written agreements between employers and  
17 local fire officials to supersede the terms of the proposed law.  
18 The agreement would set forth conditions under which an employee  
19 would be allowed to be absent from work to perform volunteer  
20 firefighter duties without suffering discharge or other  
21 disciplinary actions. The amendment also requires the joint  
22 standing committee of the Legislature having jurisdiction over  
23 labor matters to review the law in 2005. It also adds an  
24 appropriations and allocations section and a fiscal note to the  
bill.