



DELAWARE

EMPLOYMENT LAW LETTER

Part of your Delaware Employment Law Service

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LEGISLATION

New Delaware volunteer emergency responder protections enacted

by Lauren E.M. Russell

In a new bill signed into law by Governor Jack Markell in September, Delaware extended employment rights to volunteer firefighters and other first responders who must miss work because of emergencies or injuries sustained while providing volunteer rescue services.

Volunteer Emergency Responders Job Protection Act

Governor Markell signed two new bills affecting the employment rights of Delaware's emergency responders. Under the Volunteer Emergency Responders Job Protection Act, employers with 10 or more employees are prohibited from terminating, demoting, or taking other disciplinary action against a volunteer emergency responder under any of the following conditions:

- The employee is absent from her employment to respond to a governor-declared state of emergency lasting up to seven consecutive days.
- The employee is absent from her employment to respond to a president-declared national emergency lasting up to 14 consecutive days.
- The employee is absent from her employment because of injury sustained when acting as a volunteer emergency responder.

The Act defines a "volunteer emergency responder" as a volunteer firefighter, a member of the ladies auxiliary of a volunteer fire company, a volunteer emergency medical technician, or a volunteer fire police officer.

Importantly, while you may not discipline or terminate an employee for being absent when performing emergency services, you aren't required to compensate her for time away from work to perform such services. The employee also has an obligation to make "reasonable efforts" to notify you of a possible absence.

Under the Act, you also are entitled to verify that the employee was absent because of emergency service or a related injury. You may request a written statement confirming relevant facts from either the volunteer department with which the employee serves or from a treating medical provider. You're entitled to the statement within seven days of making such a request.

Amendment to Discrimination in Employment Act

The second bill signed into law amends the Delaware Discrimination in Employment Act to provide protection to volunteer firefighters, ambulance personnel, and ladies auxiliary members. More specifically, the bill makes it unlawful for employers to refuse to hire, discharge, or otherwise discriminate in the terms and conditions of employment based on an individual's service rendered to a volunteer fire or ambulance company or related ladies auxiliary.

Bottom line

The bottom line is that Delaware employers have one more protected classification of which to be aware. Hopefully these new restrictions won't impose a significant burden on employers—comments made in connection with the bill signing indicate that the bills are a reaction to a single incident affecting an injured firefighter working in Wilmington. However, as always, you need to give careful consideration to the circumstances affecting your hiring and disciplinary decisions.

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