

109TH CONGRESS
2D SESSION

S. 2399

To prohibit termination of employment of volunteers firefighters and emergency medical personnel responding to emergencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2006

Mr. CARPER (for himself and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit termination of employment of volunteers firefighters and emergency medical personnel responding to emergencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Volunteer Firefighter
5 and EMS Personnel Job Protection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) EMERGENCY.—The term “emergency” has
9 the meaning given such term in section 102 of the

1 Robert T. Stafford Disaster Relief and Emergency
2 Assistance Act (42 U.S.C. 5122).

3 (2) MAJOR DISASTER.—The term “major dis-
4 aster” has the meanings given such term in section
5 102 of the Robert T. Stafford Disaster Relief and
6 Emergency Assistance Act (42 U.S.C. 5122).

7 (3) QUALIFIED VOLUNTEER FIRE DEPART-
8 MENT.—The term “qualified volunteer fire depart-
9 ment” has the meaning given such term in section
10 150(e) of the Internal Revenue Code of 1986.

11 (4) VOLUNTEER EMERGENCY MEDICAL SERV-
12 ICES.—The term “volunteer emergency medical serv-
13 ices” means emergency medical services performed
14 on a voluntary basis for a fire department or other
15 emergency organization.

16 (5) VOLUNTEER FIREFIGHTER.—The term
17 “volunteer firefighter” means an individual who is a
18 member in good standing of a qualified volunteer
19 fire department.

20 **SEC. 3. TERMINATION OF EMPLOYMENT OF VOLUNTEER**
21 **FIREFIGHTERS AND EMERGENCY MEDICAL**
22 **PERSONNEL PROHIBITED.**

23 (a) TERMINATION PROHIBITED.—No employee may
24 be terminated, demoted, or in any other manner discrimi-
25 nated against in the terms and conditions of employment

1 because such employee is absent from or late to the em-
2 ployee's employment for the purpose of serving as a volun-
3 teer firefighter or providing volunteer emergency medical
4 services as part of a response to an emergency or major
5 disaster.

6 (b) DEPLOYMENT.—The prohibition in subsection (a)
7 shall apply to an employee serving as a volunteer fire-
8 fighter or providing volunteer emergency medical services
9 if such employee—

10 (1) is specifically deployed to respond to the
11 emergency or major disaster in accordance with a
12 coordinated national deployment system such as the
13 Emergency Management Assistance Compact or a
14 pre-existing mutual aid agreement; or

15 (2) is a volunteer firefighter who—

16 (A) is a member of a qualified volunteer
17 fire department that is located in the State in
18 which the emergency or major disaster oc-
19 curred;

20 (B) is not a member of a qualified fire de-
21 partment that has a mutual aid agreement with
22 a community affected by such emergency or
23 major disaster; and

1 (C) has been deployed by the emergency
2 management agency of such State to respond to
3 such emergency or major disaster.

4 (c) LIMITATIONS.—The prohibition in subsection (a)
5 shall not apply to an employee who—

6 (1) is absent from the employee’s employment
7 for the purpose described in subsection (a) for more
8 than 14 days per calendar year;

9 (2) responds on the emergency or major dis-
10 aster without being officially deployed as described
11 in subsection (b); or

12 (3) fails to provide the written verification de-
13 scribed in subsection (e) within a reasonable period
14 of time.

15 (d) WITHHOLDING OF PAY.—An employer may re-
16 duce an employee’s regular pay for any time that the em-
17 ployee is absent from the employee’s employment for the
18 purpose described in subsection (a).

19 (e) VERIFICATION.—An employer may require an em-
20 ployee to provide a written verification from the official
21 of the Federal Emergency Management Agency super-
22 vising the Federal response to the emergency or major dis-
23 aster or a local or State official managing the local or
24 State response to the emergency or major disaster that
25 states—

1 (1) the employee responded to the emergency or
2 major disaster in an official capacity; and

3 (2) the schedule and dates of the employee's
4 participation in such response.

5 (f) REASONABLE NOTICE REQUIRED.—An employee
6 who may be absent from or late to the employee's employ-
7 ment for the purpose described in subsection (a) shall—

8 (1) make a reasonable effort to notify the em-
9 ployee's employer of such absence; and

10 (2) continue to provide reasonable notifications
11 over the course of such absence.

12 **SEC. 4. RIGHT OF ACTION.**

13 (a) RIGHT OF ACTION.—An individual who has been
14 terminated, demoted, or in any other manner discrimi-
15 nated against in the terms and conditions of employment
16 in violation of the prohibition described in section (3) may
17 bring, in a district court of the United States of appro-
18 priate jurisdiction, a civil action against individual's em-
19 ployer seeking—

20 (1) reinstatement of the individual's former em-
21 ployment;

22 (2) payment of back wages;

23 (3) reinstatement of fringe benefits; and

24 (4) if the employment granted seniority rights,
25 reinstatement of seniority rights.

1 (b) LIMITATION.—The individual shall commence a
2 civil action under this section not later than 1 year after
3 the date of the violation of the prohibition described in
4 section 3.

5 **SEC. 5. STUDY AND REPORT.**

6 (a) STUDY.—The Secretary of Labor shall conduct
7 a study on the impact that this Act could have on the
8 employers of volunteer firefighters or individuals who pro-
9 vide volunteer emergency medical services and who may
10 be called on to respond to an emergency or major disaster.

11 (b) REPORT.—Not later than 12 months after the
12 date of the enactment of this Act, the Secretary of Labor
13 shall submit to the appropriate congressional committees
14 a report on the study conducted under subsection (a).

15 (c) APPROPRIATE CONGRESSIONAL COMMITTEES.—
16 In this section, the term “appropriate congressional com-
17 mittees” means the Committee on Health, Education,
18 Labor, and Pensions and the Committee on Small Busi-
19 ness and Entrepreneurship of the Senate and the Com-
20 mittee on Education and the Workforce and the Com-
21 mittee on Small Business of the House of Representatives.

○