PRINTER'S NO. 589

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 531 Session of 2003

INTRODUCED BY ORIE, LOGAN, MUSTO, LAVALLE, KUKOVICH, COSTA, RAFFERTY, D. WHITE, BOSCOLA, WOZNIAK, WAUGH, GREENLEAF, WONDERLING, KITCHEN AND C. WILLIAMS, MARCH 25, 2003

REFERRED TO LABOR AND INDUSTRY, MARCH 25, 2003

AN ACT

Amending the act of December 1, 1977 (P.L.249, No.83), entitled, as amended, "An act prohibiting employers from firing employees who lose time from employment in the line of duty as volunteer firemen, fire police and volunteer members of ambulance services and rescue squads; and providing penalties," further providing for the termination or discipline of volunteer firefighters; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title and sections 1, 1.1, 3, 4 and 5 of the act of December 1, 1977 (P.L.249, No.83), entitled, as amended, "An act prohibiting employers from firing employees who lose time from employment in the line of duty as volunteer firemen, fire police and volunteer members of ambulance services and rescue squads; and providing penalties," amended or added December 5, 1988 (P.L.1102, No.131), are amended to read:

AN ACT

Prohibiting employers from [firing] <u>terminating, disciplining or discriminating against</u> employees who lose time from

employment in the line of duty as volunteer [firemen] firefighters, fire police and volunteer members of ambulance services and rescue squads; and providing penalties.

Section 1. (a) No employer shall terminate or discipline an employee who is a volunteer [fireman] firefighter, fire police or volunteer member of an ambulance service or rescue squad and in the line of duty has responded to a call prior to the time [he] the employee was due to report for work resulting in a loss of time from [his] the employee's employment.

(b) (1) No municipal employer shall terminate or discipline a municipal employee who is a volunteer firefighter on the basis that the municipal employee, in the line of duty as a volunteer firefighter, responded to a call during the workday for an emergency occurring in the municipality where the volunteer firefighter is employed and is also a volunteer firefighter provided the municipal employee has notified and proven to the municipal employer that the municipal employee is a qualified volunteer firefighter.

(2) A municipal employee who is a volunteer firefighter may respond to an emergency call in another municipality only if a written mutual aid agreement exists.

(3) This subsection shall not apply to any written mutual aid agreement between a municipality and a volunteer fire company permitting municipal employees to respond to an emergency during the workday that is in effect on the effective date of this section.

Section 1.1. No employer shall discriminate against any employee because [such] the employee has been injured in the line of duty as a volunteer [fireman] firefighter, fire police or volunteer member of an ambulance service or rescue squad, nor

shall any employer discriminate against any employee injured in the line of duty as a volunteer [fireman] firefighter, fire police or volunteer member of an ambulance service or rescue squad who subsequently returns to work after receiving workers' compensation benefits pursuant to the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act." The term "discriminate" shall mean to discharge or to discipline in a manner inconsistent with the employer's treatment of other similarly situated employees who are injured in the course of their employment or related activities.

Section 3. Any employee losing time as provided in section 1 shall supply [his] the employee's employer with a statement from the chief executive officer of [his] the employee's volunteer fire company, ambulance service or rescue squad or its affiliated organization stating that [he] the employee responded to a call and the time thereof.

Section 4. As used in this act, "line of duty" shall mean going to, coming from or during fire prevention and safety activities which includes fire prevention, first aid, rescue and salvage, ambulance service, fire police work, assistance at accidents, control of crowds both on the fire grounds and at occasions of public or general assembly, animal rescue, abatement of conditions due to storm, flood or general peril, abatement or removal of hazards to safety and such other activities as are commonly undertaken by fire companies, ambulance services or rescue squads or their affiliated organizations. The term "employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the

interest of an employer in relation to any employee. The term "discipline" shall mean the taking of any action against an employee which adversely affects [his] the employee's regular pay to an extent greater than permitted by section 2, [his] the employee's job status or opportunity for promotion, or [his] the employee's right to any benefit granted by the employer to other similarly situated employees.

Section 5. Any employer who willfully and knowingly violates the provisions of this act shall be required to revoke any disciplinary action and any penalty attached thereto, or to reinstate such employee to [his] the employee's former position and shall be required to pay [such] the employee all lost wages and benefits for the period between termination and reinstatement and any reasonable attorney fees which are incurred in an action to recover lost wages and benefits. Any action to enforce the provisions of this act shall be commenced within the period of two years within the date of violation and such action shall be commenced in the court of common pleas of the county in which the employer is located.

Section 2. This act shall take effect in 60 days.