

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1189 Session of  
2019

---

INTRODUCED BY KNOWLES, MURT, CAUSER, McNEILL, QUINN, PICKETT,  
BARRAR, STEPHENS, ROTHMAN, READSHAW, OWLETT, RYAN,  
POLINCHOCK, KAUFFMAN, SAINATO, BERNSTINE, KEEFER, WARNER,  
DeLUCA, ZIMMERMAN, JONES, MARKOSEK, GOODMAN, SCHLEGEL CULVER,  
MALAGARI, GILLEN AND WHEELAND, APRIL 11, 2019

---

REFERRED TO COMMITTEE ON FINANCE, APRIL 11, 2019

---

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, in volunteer firefighters, further  
3 providing for employment sanctions; and providing for a  
4 volunteer emergency responders employer tax credit.

5 The General Assembly finds and declares as follows:

6 (a) Findings.--

7 (1) More than 85% of all emergency service personnel in  
8 this Commonwealth are volunteers.

9 (2) Volunteer emergency service personnel have saved  
10 many lives and millions of tax dollars for the residents of  
11 this Commonwealth.

12 (3) During the past decade, the ranks of volunteer  
13 emergency service personnel have decreased by more than 10%.

14 (4) The decrease in manpower within this Commonwealth's  
15 volunteer emergency services, coupled with increasing  
16 conflicts with the volunteer emergency service personnel's  
17 professional duties, has resulted in:

1 (i) Manpower response shortages to emergency calls.

2 (ii) A decrease in the number of volunteers  
3 permitted and able to participate in necessary, and  
4 sometimes required, emergency service training.

5 (iii) A greater risk to those who are permitted to  
6 respond to an emergency call.

7 (b) Declaration.--The General Assembly declares as follows:

8 (1) It is vital to provide new ways to attract and  
9 retain volunteer emergency service personnel without placing  
10 an undue burden on taxpayers or businesses throughout this  
11 Commonwealth.

12 (2) It is in the public interest for the General  
13 Assembly to:

14 (i) Encourage private employers to permit an  
15 employee-volunteer to leave work in response to an  
16 emergency call in the employee's capacity as a member of  
17 a volunteer emergency service organization, with the  
18 option of pay and no loss of time or efficiency rating,  
19 by providing a tax credit to the employer for the period  
20 during which the employee-volunteer is absent from work  
21 because of the employee-volunteer's response to an  
22 emergency call, provided that the employee is in  
23 compliance with a prearranged, preapproved release policy  
24 of the employer.

25 (ii) Encourage private employers to permit an  
26 employee-volunteer to take a paid leave of absence at the  
27 request of the chief executive officer of the volunteer  
28 emergency service organization to which the employee-  
29 volunteer belongs in order to participate in emergency  
30 service training by providing a tax credit to the

1 employer for a period of no more than five days per year  
2 during which the employee-volunteer is participating in  
3 emergency service training, provided the employee is in  
4 compliance with a prearranged, preapproved release policy  
5 of the employer.

6 (iii) Authorize the Commonwealth and its political  
7 subdivisions to permit an employee-volunteer to leave  
8 work in response to an emergency call, with or without  
9 pay and no loss of time or efficiency rating.

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

12 Section 1. Subchapter C of Chapter 74 of Title 35 of the  
13 Pennsylvania Consolidated Statutes is repealed:

14 [SUBCHAPTER C

15 EMPLOYMENT SANCTIONS

16 Sec.

17 7421. Scope of subchapter.

18 7422. Definitions.

19 7423. Prohibition on termination and discipline.

20 7424. Prohibition on discrimination.

21 7425. Lost time.

22 7426. Statements.

23 7427. Violations.

24 § 7421. Scope of subchapter.

25 This subchapter relates to employment sanctions.

26 § 7422. Definitions.

27 The following words and phrases when used in this subchapter  
28 shall have the meanings given to them in this section unless the  
29 context clearly indicates otherwise:

30 "Discipline." The taking of an action against an employee

1 which adversely affects his regular pay to an extent greater  
2 than permitted by section 7425 (relating to lost time), his job  
3 status, his opportunity for promotion or his right to any  
4 benefit granted by the employer to other similarly situated  
5 employees.

6 "Discriminate." To discharge or to discipline in a manner  
7 inconsistent with the employer's treatment of other similarly  
8 situated employees who are injured in the course of their  
9 employment or related activities.

10 "Employer." An individual, partnership, association,  
11 corporation, business trust or a person or group of persons  
12 acting directly or indirectly in the interest of an employer in  
13 relation to any employee.

14 "Line of duty." Going to, coming from or during fire  
15 prevention and safety activities which includes fire prevention,  
16 first aid, rescue and salvage, ambulance service, fire police  
17 work, assistance at accidents, control of crowds both on the  
18 fire grounds and at occasions of public or general assembly,  
19 animal rescue, abatement of conditions due to storm, flood or  
20 general peril, abatement or removal of hazards to safety and  
21 other activities as are commonly undertaken by fire companies,  
22 ambulance services or rescue squads or their affiliated  
23 organizations.

24 § 7423. Prohibition on termination and discipline.

25 No employer shall terminate or discipline an employee who is  
26 a volunteer fireman, a volunteer member of the fire police or a  
27 volunteer member of an ambulance service or rescue squad and, in  
28 the line of duty, has responded to a call prior to the time he  
29 was due to report for work resulting in a loss of time from his  
30 employment.

1 § 7424. Prohibition on discrimination.

2 No employer shall discriminate against an employee because  
3 the employee has been injured in the line of duty as a volunteer  
4 fireman, a volunteer member of the fire police or a volunteer  
5 member of an ambulance service or rescue squad, nor shall an  
6 employer discriminate against an employee injured in the line of  
7 duty as a volunteer fireman, a volunteer member of the fire  
8 police or a volunteer member of an ambulance service or rescue  
9 squad who subsequently returns to work after receiving workers'  
10 compensation benefits under the act of June 2, 1915 (P.L.736,  
11 No.338), known as the Workers' Compensation Act.

12 § 7425. Lost time.

13 Time lost from employment as provided in section 7423  
14 (relating to prohibition on termination and discipline) may be  
15 charged to the regular pay of the employee.

16 § 7426. Statements.

17 An employee losing time as provided in section 7423 (relating  
18 to prohibition on termination and discipline) shall supply his  
19 employer with a statement from the chief executive officer of  
20 his volunteer fire company, ambulance service or rescue squad or  
21 its affiliated organization stating that he responded to a call  
22 and the time of the call.

23 § 7427. Violations.

24 (a) Employers.--An employer who willfully and knowingly  
25 violates this subchapter shall be required to revoke a  
26 disciplinary action and any penalty attached thereto or to  
27 reinstate such employee to his former position and shall be  
28 required to pay the employee all lost wages and benefits for the  
29 period between termination and reinstatement and reasonable  
30 attorney fees incurred in an action to recover lost wages and

1 benefits.

2 (b) Statute of limitations.--An action to enforce this  
3 subchapter shall be commenced within two years of the date of  
4 violation, and the action shall be commenced in the court of  
5 common pleas of the county in which the employer is located.]

6 Section 2. Title 35 is amended by adding a chapter to read:

7 CHAPTER 74A

8 VOLUNTEER EMERGENCY RESPONDERS EMPLOYER TAX CREDIT

9 Subchapter

10 A. Preliminary Provisions

11 B. Private Sector Incentives

12 C. Public Sector Incentives

13 SUBCHAPTER A

14 PRELIMINARY PROVISIONS

15 Sec.

16 74A01. Scope of chapter.

17 74A02. Definitions.

18 74A03. Employment discrimination prohibited.

19 § 74A01. Scope of chapter.

20 This chapter relates to volunteer emergency responders  
21 employer tax credit.

22 § 74A02. Definitions.

23 The following words and phrases when used in this chapter  
24 shall have the meanings given to them in this section unless the  
25 context clearly indicates otherwise:

26 "Commonwealth." A department, agency, board, commission or  
27 instrumentality of State government.

28 "Department." The Department of Community and Economic  
29 Development of the Commonwealth.

30 "Discipline." To take action against an employee which

1 adversely affects the employee's regular pay to an extent not  
2 provided for in this chapter, the employee's job status or  
3 opportunity for promotion or the employee's right to any benefit  
4 granted by the employer to other similarly situated employees.

5 "Discriminate." To discharge or to discipline in a manner  
6 inconsistent with the employer's treatment of other similarly  
7 situated employees who are injured in the course of employment  
8 or related activities.

9 "Employee-volunteer." A member of a volunteer emergency  
10 service organization who is in the employ of the Commonwealth, a  
11 political subdivision or a private employer.

12 "Employer." An individual, partnership, association,  
13 corporation, business trust or a person or group of persons who  
14 controls and directs a worker under an express or implied  
15 contract of hire and who pays the worker's salary or wages. The  
16 term includes the Commonwealth and its political subdivisions.

17 "Line of duty." Going to, coming from or during fire  
18 prevention and safety activities, which include fire prevention,  
19 first aid, rescue and salvage, ambulance service, fire police  
20 work, assistance at accidents, control of crowds both on the  
21 fire grounds and at occasions of public or general assembly,  
22 animal rescue, abatement of conditions due to storm, flood or  
23 general peril, abatement or removal of hazards to safety and  
24 other activities as are commonly undertaken by fire companies,  
25 ambulance services or rescue squads or affiliated organizations.

26 "Pass-through entity." A partnership as defined in section  
27 301(n.0) of the act of March 4, 1971 (P.L.6, No.2), known as the  
28 Tax Reform Code of 1971, or a Pennsylvania S corporation as  
29 defined in section 301(n.1) of the Tax Reform Code of 1971.

30 "Political subdivision." A county, city, borough,

1 incorporated town, township, home rule municipality, school  
2 district or municipal authority.

3 "Qualified tax liability." The liability for taxes imposed  
4 under Article III, IV, VI, VII, VIII, IX or XV of the Tax Reform  
5 Code of 1971. The term does not include a tax withheld by an  
6 employer from an employee under Article III of the Tax Reform  
7 Code of 1971.

8 "Tax credit." The volunteer emergency responders employer  
9 tax credit established under section 74A11 (relating to  
10 volunteer emergency responders employer tax credit).

11 "Taxpayer." An entity that is subject to a tax imposed under  
12 Article III, IV, VI, VII, VIII, IX or XV of the Tax Reform Code  
13 of 1971. The term does not include a tax withheld by an employer  
14 from an employee under Article III of the Tax Reform Code of  
15 1971.

16 "Volunteer ambulance service." A nonprofit chartered  
17 corporation, association or organization located in this  
18 Commonwealth, which is licensed by the Department of Health, is  
19 not associated or affiliated with a hospital and which is  
20 regularly engaged in the provision of emergency medical  
21 services, including basic life support or advanced life support  
22 services and utilizes advanced life support squad vehicles as  
23 defined in 28 Pa. Code § 1021.2 (relating to definitions). The  
24 term does not include a corporation, association or organization  
25 that is primarily engaged in the operation of invalid coaches  
26 which are intended for the routine transport of persons who are  
27 convalescent or otherwise nonambulatory and do not ordinarily  
28 require emergency medical treatment while in transit.

29 "Volunteer emergency service organization." An organization  
30 which is a volunteer fire company, volunteer ambulance service,



1 volunteer rescue company or volunteer hazardous material  
2 response team.

3 "Volunteer fire company." A nonprofit chartered corporation,  
4 association or organization located in this Commonwealth which  
5 provides fire protection or rescue services and which may offer  
6 other voluntary emergency services within this Commonwealth.  
7 Voluntary emergency services provided by a volunteer fire  
8 company may include voluntary ambulance and voluntary rescue  
9 services.

10 "Volunteer hazardous material response team." A nonprofit  
11 chartered corporation, association or organization located in  
12 this Commonwealth whose members are certified and organized to  
13 provide emergency response services to mitigate actual or  
14 potential immediate threats to public health and the environment  
15 in response to the release or threat of a release of a hazardous  
16 material. The term includes teams certified to perform  
17 stabilization actions needed to remove threats to public health  
18 and the environment from hazardous material releases.

19 "Volunteer rescue company." A nonprofit chartered  
20 corporation, association or organization located in this  
21 Commonwealth which provides rescue service in this Commonwealth.  
22 § 74A03. Employment discrimination prohibited.

23 (a) General rule.--It is unlawful for an employer to refuse  
24 to hire or employ an individual because the individual is a  
25 member of a volunteer emergency service organization.

26 (b) Prohibition on discipline and discrimination for time  
27 lost.--

28 (1) It is unlawful for an employer to discipline or  
29 discriminate or to discharge from employment an employee-  
30 volunteer with respect to base salary, hire, tenure, terms,

1 conditions or privileges of employment for the reason that  
2 the employee-volunteer responded to an emergency call prior  
3 to the time the employee-volunteer was due to report to work,  
4 resulting in loss of time from employment, if the employee-  
5 volunteer satisfies the requirements of paragraph (2).

6 (2) An employee-volunteer who loses time for reasons  
7 specified in this section shall immediately upon arriving at  
8 work inform the employee-volunteer's employer or immediate  
9 supervisor that the employee-volunteer has been called to  
10 respond to an emergency. The employee-volunteer losing time  
11 as provided for under this chapter shall supply the employee-  
12 volunteer's employer with a statement from the chief  
13 executive officer of the volunteer emergency service  
14 organization for which the employee-volunteer volunteers  
15 stating that employee-volunteer responded to a call and the  
16 time of the call.

17 (3) If an employee-volunteer is employed by a private  
18 employer, any time lost from employment may be charged  
19 against the employee-volunteer's regular salary or wages or  
20 the private employer may apply for the tax credits provided  
21 under section 74A11(a) (relating to volunteer responders  
22 employer tax credit).

23 (4) If an employee-volunteer is employed by the  
24 Commonwealth or a political subdivision, payment of salary or  
25 wages for time lost from employment shall be based on a  
26 policy adopted by the Commonwealth or the political  
27 subdivision.

28 (c) Discrimination because of injury.--It is unlawful for an  
29 employer to discipline or to discharge from employment or to  
30 otherwise discriminate against an employee-volunteer with

1 respect to hiring, compensation, tenure, terms, conditions or  
2 privileges of employment because the employee-volunteer has been  
3 injured in the line of duty and has subsequently returned to  
4 work, regardless of whether the employee-volunteer received any  
5 workers' compensation benefits under the act of June 2, 1915  
6 (P.L.736, No.338), known as the Workers' Compensation Act.

7 (d) Legal action.--An employer who willfully and knowingly  
8 violates the provisions of this chapter shall:

9 (1) Revoke disciplinary action or penalty imposed  
10 against an employee-volunteer or reinstate the employee-  
11 volunteer to his or her former position.

12 (2) Pay the employee-volunteer all lost wages and  
13 benefits for the period between termination and reinstatement  
14 and reasonable attorney fees which are incurred in an action  
15 to recover lost wages and benefits.

16 (e) Period of limitations.--An action to enforce the  
17 provisions of this chapter shall be commenced within a period of  
18 two years from the date of violation, and the action shall be  
19 commenced in the court of common pleas of the county in which  
20 the employer is located.

21 SUBCHAPTER B

22 PRIVATE SECTOR INCENTIVES

23 Sec.

24 74A11. Volunteer emergency responders employer tax credit.

25 74A12. Application for tax credit.

26 74A13. Review and approval.

27 74A14. Limitations.

28 74A15. Shareholder, owner or member pass-through.

29 74A16. Guidelines.

30 74A17. Applicability.

1 74A18. Reports.

2 § 74A11. Volunteer emergency responders employer tax credit.

3 (a) Eligibility.--A taxpayer that is an employer shall be  
4 eligible to receive a tax credit against qualified tax liability  
5 if the taxpayer permits an employee-volunteer to take a paid  
6 leave of absence for any of the following:

7 (1) In response to an emergency call or to respond to an  
8 emergency call prior to the start of work.

9 (2) At the written request of the chief executive  
10 officer of the volunteer emergency service organization in  
11 order to participate as a student or instructor in training  
12 appropriate to the volunteer emergency services organization.

13 (b) Official notice required.--

14 (1) In order to qualify for the paid leave of absence as  
15 provided for in subsection (a)(1), the employee-volunteer  
16 shall provide notice that the employee-volunteer has been  
17 called to respond to an emergency or provide notice that  
18 employee-volunteer responded to a call and the time of the  
19 call and request that a leave of absence be granted.

20 (2) In order to qualify for the paid leave of absence as  
21 provided for in subsection (a)(2), the employee-volunteer  
22 shall provide the employer, within 14 days of the scheduled  
23 training, a signed statement from the chief executive officer  
24 of the volunteer emergency service organization that includes  
25 the reason and amount of time needed for the employee-  
26 volunteer to complete the training along with a request that  
27 a leave of absence be granted.

28 § 74A12. Application for tax credit.

29 A taxpayer may apply to the department for a tax credit  
30 certificate under this section. The application must be on a

1 form required by the department and shall include all of the  
2 following information:

3 (1) The name and address of the taxpayer.

4 (2) Documentation of the following for each eligible  
5 employee-volunteer in which a tax credit is being claimed:

6 (i) Name and address of the employee-volunteer.

7 (ii) Total wages paid by the taxpayer to the  
8 employee-volunteer.

9 (iii) Wages paid by the taxpayer to the employee-  
10 volunteer paid under section 74A11(a) (relating to  
11 volunteer responders employer tax credit).

12 (iv) Documentation as required by section 74A11(a)  
13 (2) or (b).

14 (3) Any other information required by the department.

15 § 74A13. Review and approval.

16 (a) Duties.--The department shall do all of the following:

17 (1) Review and approve applications according to the  
18 order applications are received and the availability of tax  
19 credits.

20 (2) Notify the applicant within 30 days of receipt of  
21 the application of its determination.

22 (b) Issuance.--If an application is approved, the department  
23 shall issue the taxpayer a tax credit certificate within 15 days  
24 of the approval.

25 § 74A14. Limitations.

26 (a) Amount.--A tax credit certificate issued under this  
27 section may not exceed 50% of a taxpayer's qualified tax  
28 liability.

29 (b) Prohibition.--In granting tax credits under this  
30 chapter, the department may not do any of the following:

1           (1) Grant more than \$5,000,000 in tax credit  
2           certificates in any fiscal year.

3           (2) Grant more than \$10,000 in tax credit certificates  
4           to a single taxpayer in any fiscal year.

5           (c) Unused credits.--A taxpayer may not be entitled to carry  
6           forward, carry back or obtain a refund of the unused tax credit.

7           (d) Sale or reassignment.--A tax credit may not be sold or  
8           reassigned.

9           § 74A15. Shareholder, owner or member pass-through.

10          (a) Shareholder entitlement.--If a Pennsylvania S  
11          corporation does not have an eligible tax liability against  
12          which the tax credit may be applied, a shareholder of the  
13          Pennsylvania S corporation shall be entitled to a tax credit  
14          equal to the tax credit determined for the Pennsylvania S  
15          corporation for the taxable year multiplied by the percentage of  
16          the Pennsylvania S corporation's distributive income to which  
17          the shareholder is entitled.

18          (b) Pass-through entity entitlement.--If a pass-through  
19          entity other than a Pennsylvania S corporation does not have tax  
20          liability against which the tax credit may be applied, an owner  
21          or member of the pass-through entity shall be entitled to a tax  
22          credit equal to the tax credit determined for the pass-through  
23          entity for the taxable year multiplied by the percentage of the  
24          pass-through entity's distributive income to which the owner or  
25          member is entitled.

26          (c) Additional credit.--

27               (1) Except as provided under paragraph (2), the tax  
28               credit provided under subsection (a) or (b) shall be in  
29               addition to any other tax credit to which a shareholder,  
30               owner or member of a pass-through entity is otherwise

1 entitled under this chapter.

2 (2) A pass-through entity and a shareholder, owner or  
3 member of a pass-through entity may not claim a tax credit  
4 under this chapter for the same employee-volunteer.

5 § 74A16. Guidelines.

6 The department, in conjunction with the Department of  
7 Revenue, shall develop written guidelines necessary for the  
8 implementation and administration of this chapter. The  
9 guidelines shall be posted on the department's publicly  
10 accessible Internet website.

11 § 74A17. Applicability.

12 This chapter shall apply to taxable years beginning after  
13 December 31, 2019.

14 § 74A18. Reports.

15 No later than June 1, 2021, and each June 1 thereafter, the  
16 department shall submit a report on the effectiveness of the tax  
17 credits granted under this chapter. The report shall include the  
18 names of taxpayers who were issued tax credits as of the date of  
19 the report. The report may include recommendations for changes  
20 in the calculation or administration of the tax credits and  
21 other information as the department deems appropriate. The  
22 report shall be submitted to all of the following:

23 (1) The chairperson and minority chairperson of the  
24 Appropriations Committee of the Senate.

25 (2) The chairperson and minority chairperson of the  
26 Finance Committee of the Senate.

27 (3) The chairperson and minority chairperson of the  
28 Appropriations Committee of the House of Representatives.

29 (4) The chairperson and the minority chairperson of the  
30 Finance Committee of the House of Representatives.

