

# STATE OF NEW YORK

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6055

2017-2018 Regular Sessions

## IN ASSEMBLY

February 23, 2017

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Introduced by M. of A. OAKS, CURRAN, FITZPATRICK, GIGLIO, GOODELL, HAWLEY, MONTESANO, PALMESANO, DiPIETRO, WALTER, FINCH, LAWRENCE, RAIA, ERRIGO, GRAF, NORRIS -- Multi-Sponsored by -- M. of A. BARCLAY, BLANK-ENBUSH, BUTLER, CROUCH, KOLB, LOPEZ, LUPINACCI, McDONOUGH, McKEVITT, McLAUGHLIN, B. MILLER, MURRAY, STEC -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, the vehicle and traffic law, the general municipal law, the labor law, the public health law, the volunteer firefighters' benefit law, the volunteer ambulance workers' benefit law, and the county law, in relation to enacting the volunteer firefighter and ambulance worker protection and incentive act of 2015; and to amend chapter 668 of the laws of 1977, amending the volunteer firefighters' benefit law, relating to disability due to disease or malfunction of the heart or coronary arteries, in relation to making certain provisions thereof permanent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "volunteer firefighter and ambulance worker protection and incentive  
3 act of 2017".

4 § 2. Subsection (e-2) of section 606 of the tax law, as added by  
5 section 1 of part U of chapter 62 of the laws of 2006, paragraph 2 as  
6 amended by chapter 532 of the laws of 2007, paragraph 3 as added and  
7 paragraph 4 as renumbered by section 4 of part N of chapter 61 of the  
8 laws of 2006, and as relettered by section 1 of part K of chapter 59 of  
9 the laws of 2014, is amended to read as follows:

10 (e-2) Volunteer firefighters' and ambulance workers' credit. (1) For  
11 taxable years beginning on and after January first, two thousand [~~seven~~]  
12 seventeen, a resident taxpayer who serves as an active volunteer fire-  
13 fighter as defined in subdivision one of section two hundred fifteen of  
14 the general municipal law or as a volunteer ambulance worker as defined

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 in subdivision fourteen of section two hundred nineteen-k of the general  
2 municipal law shall be allowed a credit against the tax imposed by this  
3 article equal to [~~two~~] five hundred dollars. In order to receive this  
4 credit a volunteer firefighter or volunteer ambulance worker must have  
5 been active for the entire taxable year for which the credit is sought.

6 (2) If a taxpayer receives a real property tax exemption relating to  
7 such service under title two of article four of the real property tax  
8 law, such taxpayer shall not be eligible for this credit; provided,  
9 however (A) if the taxpayer receives such real property tax exemption in  
10 the two thousand [~~seven~~] seventeen taxable year as a result of making  
11 application therefor in a prior year or (B) if the taxpayer notifies his  
12 or her assessor in writing by December thirty-first, two thousand  
13 [~~seven~~] seventeen of the taxpayer's intent to discontinue such real  
14 property tax exemption by not re-applying for such real property tax  
15 exemption by the next taxable status date, such taxpayer shall be eligi-  
16 ble for this credit for the two thousand [~~seven~~] seventeen taxable year.

17 (3) In the case of a husband and wife who file a joint return and who  
18 both individually qualify for the credit under this subsection, the  
19 amount of the credit allowed shall be [~~four hundred~~] one thousand  
20 dollars.

21 (4) If the amount of the credit allowed under this subsection for any  
22 taxable year shall exceed the taxpayer's tax for such year, the excess  
23 shall be treated as an overpayment of tax to be credited or refunded in  
24 accordance with the provisions of section six hundred eighty-six of this  
25 article, provided, however, that no interest shall be paid thereon.

26 § 2-a. Subsection (e-1) of section 606 of the tax law, as added by  
27 section 1 of part U of chapter 62 of the laws of 2006, paragraph 2 as  
28 amended by chapter 532 of the laws of 2007, paragraph 3 as added and  
29 paragraph 4 as renumbered by section 4 of part N of chapter 61 of the  
30 laws of 2006, is amended to read as follows:

31 (e-1) Volunteer firefighters' and ambulance workers' credit. (1) For  
32 taxable years beginning on and after January first, two thousand [~~seven~~]  
33 seventeen, a resident taxpayer who serves as an active volunteer fire-  
34 fighter as defined in subdivision one of section two hundred fifteen of  
35 the general municipal law or as a volunteer ambulance worker as defined  
36 in subdivision fourteen of section two hundred nineteen-k of the general  
37 municipal law shall be allowed a credit against the tax imposed by this  
38 article equal to [~~two~~] five hundred dollars. In order to receive this  
39 credit a volunteer firefighter or volunteer ambulance worker must have  
40 been active for the entire taxable year for which the credit is sought.

41 (2) If a taxpayer receives a real property tax exemption relating to  
42 such service under title two of article four of the real property tax  
43 law, such taxpayer shall not be eligible for this credit; provided,  
44 however (A) if the taxpayer receives such real property tax exemption in  
45 the two thousand [~~seven~~] seventeen taxable year as a result of making  
46 application therefor in a prior year or (B) if the taxpayer notifies his  
47 or her assessor in writing by December thirty-first, two thousand  
48 [~~seven~~] seventeen of the taxpayer's intent to discontinue such real  
49 property tax exemption by not re-applying for such real property tax  
50 exemption by the next taxable status date, such taxpayer shall be eligi-  
51 ble for this credit for the two thousand [~~seven~~] seventeen taxable year.

52 (3) In the case of a husband and wife who file a joint return and who  
53 both individually qualify for the credit under this subsection, the  
54 amount of the credit allowed shall be [~~four hundred~~] one thousand  
55 dollars.

(4) If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 3. Subdivision 6 of section 401 of the vehicle and traffic law is amended by adding a new paragraph h to read as follows:

h. Notwithstanding any provision of this chapter or any other law to the contrary, any motor vehicle owned by a volunteer firefighter, as defined in subdivision one of section three of the volunteer firefighters' benefit law, or a volunteer ambulance worker, as defined in subdivision one of section three of the volunteer ambulance workers' benefit law, and used by such volunteer in the performance of his or her duties as a volunteer firefighter or volunteer ambulance worker shall be exempt from all motor vehicle registration fees and from any vehicle use or other tax based upon the weight or value of such motor vehicle.

§ 4. Subdivision 3 of section 404-b of the vehicle and traffic law, as amended by chapter 277 of the laws of 1991, is amended to read as follows:

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this ~~chapter~~ article and an initial one time service charge of fifteen dollars; provided, however, no such registration fee or service charge shall be imposed for a motor vehicle used by a volunteer firefighter in the performance of his or her duties.

§ 5. Subdivision 3 of section 404-f of the vehicle and traffic law, as amended by chapter 277 of the laws of 1991, is amended to read as follows:

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this ~~chapter~~ article and an additional annual service charge of fifteen dollars; provided, however, no such registration fee or service charge shall be imposed for a motor vehicle used by a member of a volunteer ambulance service in the performance of his or her duties.

§ 6. Section 92-a of the general municipal law is amended by adding a new subdivision 8 to read as follows:

8. The provisions of this section shall apply to volunteer firefighters, as defined in subdivision one of section three of the volunteer firefighters' benefit law, and volunteer ambulance workers, as defined in subdivision one of section three of the volunteer ambulance workers' benefit law; provided however, that the total or partial cost of participation shall be borne by such member, unless the governing board of the volunteer fire company, department, or corporation or the governing board of the volunteer ambulance company, either voluntary or municipal, shall enact provisions to provide total or partial contribution in payment of the cost of such member's participation in such plan.

§ 7. The labor law is amended by adding a new section 202-n to read as follows:

§ 202-n. Authorized absence. 1. If an employee is absent from or late to his or her employment in order to respond to an emergency prior to the time the employee is to report to his or her employment due to his or her engaging in the actual performance of his or her duties as (a) a volunteer firefighter, or (b) an enrolled member of a volunteer ambulance service pursuant to article thirty of the public health law, an

1 employer shall be prohibited from terminating such employee on the basis  
2 of such absence or lateness.

3 2. The entire period of the authorized absence granted pursuant to  
4 this section may be charged against any other leave such employee is  
5 otherwise entitled to, and such authorized absence shall include travel  
6 both to and from such duties performed in his or her capacity as a  
7 volunteer. At the employer's request, the employee must provide the  
8 employer with a statement from the head of the volunteer firefighter or  
9 volunteer ambulance service, as applicable, stating the employee  
10 responded to an emergency and the time of such response.

11 § 8. Subdivisions 12 and 13 of section 2780 of the public health law,  
12 as added by chapter 584 of the laws of 1988, are amended and two new  
13 subdivisions 18 and 19 are added to read as follows:

14 12. "Health facility" means a hospital as defined in section two thou-  
15 sand eight hundred one of this chapter, nursing home, hospice, clinic,  
16 blood bank, blood center, sperm bank, organ or tissue bank, clinical  
17 laboratory, residential or outpatient drug and alcohol rehabilitation  
18 service or facility providing care or treatment to persons with a mental  
19 disability as defined in article one of the mental hygiene law or any  
20 other health care institution required to be licensed in this state  
21 whether privately or publicly operated.

22 13. "Health care provider" means any physician, nurse, emergency  
23 medical services worker, provider of services for the mentally disabled  
24 as defined in article one of the mental hygiene law, or other person  
25 involved in providing medical, nursing, counseling, or other health care  
26 or mental health service, including those associated with, or under  
27 contract to, a health maintenance organization or medical services plan.

28 18. "First responder" means police, firefighters, rescue personnel or  
29 any other person who provides emergency response, first aid or other  
30 medically related assistance either in the course of their occupational  
31 duties or as a volunteer, which may expose them to contact with a  
32 person's bodily fluids.

33 19. "Significant exposure" means direct contact with blood or body  
34 fluids of a patient in a manner which, according to the most current  
35 guidelines of the Centers for Disease Control of the United States  
36 Public Health Service, is capable of transmitting human immunodeficiency  
37 virus, including, but not limited to, a percutaneous injury, contact of  
38 mucous membranes or contact of skin (especially when the exposed skin is  
39 chapped, abraded or afflicted with dermatitis) or if the contact is  
40 prolonged or involves an extensive area.

41 § 9. Subdivision 1 of section 2781 of the public health law, as  
42 amended by chapter 502 of the laws of 2016, is amended to read as  
43 follows:

44 1. Except as provided in section twenty-seven hundred eighty-one-b of  
45 this article or in section three thousand one hundred twenty-one of the  
46 civil practice law and rules, or unless otherwise specifically author-  
47 ized or required by a state or federal law, no person shall order the  
48 performance of an HIV related test without first, at a minimum, orally  
49 advising the protected individual, or, when the protected individual  
50 lacks capacity to consent, a person authorized to consent to health care  
51 for such individual, that an HIV-related test is being performed, or  
52 over the objection of such individual or authorized persons. Such  
53 advisement and objection, when applicable shall be noted in the individ-  
54 ual's record.

55 § 10. The public health law is amended by adding a new section 2781-b  
56 to read as follows:

1     § 2781-b. Certification of significant exposure and testing proce-  
2 dures. 1. Whenever a health care provider or first responder experiences  
3 an exposure to a patient's blood or bodily fluids during the course of  
4 rendering health care or occupational services, the individual may  
5 request an evaluation of the exposure, by a physician, to determine if  
6 it is a significant exposure. No physician shall certify his own signif-  
7 icant exposure or that of any of his employees. Such requests shall be  
8 made within seventy-two hours of the exposure.

9     2. Within seventy-two hours of the request, the physician shall make  
10 written certification of the significance of the exposure.

11     3. If the physician determines that the health care provider or first  
12 responder has experienced a significant exposure, the physician shall  
13 offer the exposed individual the opportunity to undergo testing follow-  
14 ing the procedure outlined in section twenty-seven hundred eighty-one of  
15 this article.

16     § 11. The volunteer firefighters' benefit law is amended by adding a  
17 new section 26 to read as follows:

18     § 26. Exposure to blood or bodily fluids. If, as a result of services  
19 performed in the line of duty, a volunteer firefighter experiences an  
20 exposure to a patient's or victim's blood or bodily fluids, the execu-  
21 tive officer of the fire department or fire company of which he or she  
22 is a member may authorize the volunteer firefighter to obtain the evalu-  
23 ation and testing of the exposure set forth in section twenty-seven  
24 hundred eighty-one-b of the public health law. Any such authorization  
25 may be granted prior to the giving of notice under this chapter. Such  
26 evaluation and testing of the exposure shall be a covered benefit under  
27 this chapter.

28     § 12. The volunteer ambulance workers' benefit law is amended by  
29 adding a new section 26 to read as follows:

30     § 26. Exposure to blood or bodily fluids. If, as a result of services  
31 performed in the line of duty, a volunteer ambulance worker experiences  
32 an exposure to a patient's or victim's blood or bodily fluids, the exec-  
33 utive officer of the ambulance company of which he or she is a member  
34 may authorize the volunteer ambulance worker to obtain the evaluation  
35 and testing of the exposure set forth in section twenty-seven hundred  
36 eighty-one-b of the public health law. Any such authorization may be  
37 granted prior to the giving of notice under this chapter. Such evalu-  
38 ation and testing of the exposure shall be a covered benefit under this  
39 chapter.

40     § 13. The county law is amended by adding a new section 307-a to read  
41 as follows:

42     § 307-a. Priority access to wireless telephone and text messaging  
43 service for emergency service. Every wireless telephone service supplier  
44 as defined in section three hundred twenty-five of this chapter, offer-  
45 ing wireless telephone and text messaging service shall, to the extent  
46 technically feasible, make available to (1) any wireless telephone  
47 customer dialing 911 and (2) emergency service providers including, but  
48 not limited to, fire departments and companies, emergency medical  
49 services and law enforcement agencies, priority access to wireless tele-  
50 phone and text messaging service in order to assure its availability  
51 during a public emergency. Such wireless telephone service suppliers may  
52 consult with the New York state 911 board, state fire administrator, New  
53 York state emergency medical services council and such law enforcement  
54 officials as appropriate in establishing such priority access.

55     § 14. Section 4 of chapter 668 of the laws of 1977, amending the  
56 volunteer firefighters' benefit law, relating to disability due to

1 disease or malfunction of the heart or coronary arteries, as amended by  
2 chapter 26 of the laws of 2015, is amended to read as follows:

3 ~~§ 4. The provisions of section two of this act shall remain in full~~  
4 ~~force and effect to and including the thirtieth day of June, 2020.]~~

5 § 15. Notwithstanding any other provision of law to the contrary, the  
6 payment of tolls on any highway, bridge, tunnel or other toll road with-  
7 in this state shall not apply to a voluntary ambulance service operating  
8 pursuant to a valid operating certificate as described in subdivision 1  
9 of section 3005 of the public health law while such vehicle is respond-  
10 ing to an emergency or furnishing voluntary ambulance services.

11 § 16. This act shall take effect immediately, except that:

12 a. the amendments to subsection (e-2) of section 606 of the tax law  
13 made by section two of this act shall be subject to the expiration and  
14 reversion of such subsection pursuant to section 1 of part K of chapter  
15 59 of the laws of 2014, as amended, when upon such date the provisions  
16 of section two-a of this act shall take effect;

17 b. sections three, four and five of this act shall apply to fees,  
18 charges and taxes imposed on or after such effective date; and

19 c. section six of this act shall take effect on the one hundred twen-  
20 tieth day after it shall have become a law. The rules and regulations  
21 necessary to implement the provisions of section six of this act on its  
22 effective date are authorized and directed to be promulgated on or  
23 before such date.