

9849

I N   A S S E M B L Y

May 27, 2014

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Introduced by M. of A. THIELE -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to authorized absences by members of volunteer fire departments and volunteer ambulance squads who respond to states of emergency

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. The labor law is amended by adding a new section 202-1 to  
2     read as follows:
- 3     S 202-L. LEAVE OF ABSENCE FOR VOLUNTEER EMERGENCY RESPONDERS. 1.  
4     DURING THE TIME THAT AN EMERGENCY EXISTS FOLLOWING A DECLARATION OF SUCH  
5     EMERGENCY PURSUANT TO SECTION TWENTY-FOUR OR TWENTY-EIGHT OF THE EXECU-  
6     TIVE LAW, AN EMPLOYEE MAY REQUEST AND SHALL BE GRANTED A LEAVE OF  
7     ABSENCE FROM HIS OR HER EMPLOYER WHILE ENGAGED IN THE ACTUAL PERFORMANCE  
8     OF HIS OR HER DUTIES AS, (A) A VOLUNTEER FIREFIGHTER, OR (B) AN ENROLLED  
9     MEMBER OF A VOLUNTEER AMBULANCE SERVICE PURSUANT TO ARTICLE THIRTY OF  
10    THE PUBLIC HEALTH LAW UNLESS THE EMPLOYER DETERMINES THAT THE EMPLOYEE'S  
11    ABSENCE WOULD IMPOSE AN UNDUE HARDSHIP ON THE CONDUCT OF THE EMPLOYER'S  
12    BUSINESS AS DEFINED BY PARAGRAPH (D) OF SUBDIVISION TEN OF SECTION TWO  
13    HUNDRED NINETY-SIX OF THE EXECUTIVE LAW.
- 14    2. SUBDIVISION ONE OF THIS SECTION SHALL APPLY ONLY WHEN:
- 15    (A) THE EMPLOYER HAS PREVIOUSLY RECEIVED WRITTEN DOCUMENTATION FROM  
16    THE HEAD OF THE EMPLOYEE'S FIRE DEPARTMENT OR VOLUNTEER AMBULANCE  
17    SERVICE, AS APPLICABLE, NOTIFYING THE EMPLOYER OF THE EMPLOYEE'S STATUS  
18    AS A VOLUNTEER FIREFIGHTER OR MEMBER OF A VOLUNTEER AMBULANCE SERVICE;  
19    OR
- 20    (B) THE EMPLOYEE'S DUTIES AS A VOLUNTEER FIREFIGHTER OR MEMBER OF A  
21    VOLUNTEER AMBULANCE SERVICE ARE RELATED TO THE DECLARED EMERGENCY.
- 22    3. THE ENTIRE PERIOD OF THE AUTHORIZED LEAVE OF ABSENCE GRANTED PURSU-  
23    ANT TO THIS SECTION SHALL EITHER BE UNPAID EXCUSED LEAVE FOR EMPLOYEES  
24    WHO ARE SUBJECT TO THE OVERTIME PROVISIONS OF THIS CHAPTER, THE FEDERAL  
25    FAIR LABOR STANDARDS ACT AND REGULATIONS PROMULGATED THEREUNDER, OR MAY  
26    OTHERWISE BE CHARGED AGAINST ANY OTHER LEAVE TO WHICH SUCH EMPLOYEE IS  
27    ENTITLED, AS DETERMINED BY THE EMPLOYER.

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

LBD04717-03-4

1 4. UPON THE EMPLOYER'S REQUEST, AN EMPLOYEE WHO HAS BEEN GRANTED A  
2 LEAVE OF ABSENCE IN ACCORDANCE WITH THIS SECTION SHALL PROVIDE HIS OR  
3 HER EMPLOYER WITH A NOTARIZED STATEMENT FROM THE HEAD OF THE VOLUNTEER  
4 FIRE DEPARTMENT OR VOLUNTEER AMBULANCE SERVICE, AS APPLICABLE, CERTIFY-  
5 ING THE PERIOD OF TIME, OR TIMES, THAT SAID EMPLOYEE RESPONDED TO ANY  
6 EMERGENCY PURSUANT TO THIS SECTION.

7 5. NOTHING SET FORTH IN THIS SECTION SHALL BE CONSTRUED TO IMPEDE,  
8 INFRINGE OR DIMINISH THE RIGHTS AND BENEFITS WHICH ACCRUE TO EMPLOYEES  
9 THROUGH BONA FIDE COLLECTIVE BARGAINING AGREEMENTS, OR OTHERWISE DIMIN-  
10 ISH THE INTEGRITY OF THE EXISTING COLLECTIVE BARGAINING RELATIONSHIP.

11 6. AS USED IN THIS SECTION, EMPLOYER DOES NOT INCLUDE THE STATE. NOTH-  
12 ING SET FORTH IN THIS SECTION SHALL BE CONSTRUED AS SUPERSEDING, LIMIT-  
13 ING, OR OTHERWISE AFFECTING THE PROVISIONS OF SECTION EIGHTY-TWO-A OF  
14 THE CIVIL SERVICE LAW, PROVIDING FOR AUTHORIZED ABSENCES FOR PUBLIC  
15 OFFICERS AND EMPLOYEES OF THE STATE.

16 S 2. This act shall take effect on the ninetieth day after it shall  
17 have become a law.