

1 AN ACT

2 relating to the prohibition of certain employment discrimination
3 regarding an employee who is a volunteer emergency responder.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 2, Labor Code, is amended by
6 adding Chapter 24 to read as follows:

7 CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER
8 EMERGENCY RESPONDERS

9 Sec. 24.001. DEFINITIONS. In this chapter:

10 (1) "Declared disaster" means:

11 (A) a disaster declared by the president of the
12 United States;

13 (B) a state of disaster declared by the governor
14 under Section 418.014, Government Code; or

15 (C) a local state of disaster declared by the
16 presiding officer of the governing body of a political subdivision
17 under Section 418.108, Government Code.

18 (2) "Emergency medical services" has the meaning
19 assigned by Section 773.003, Health and Safety Code.

20 (3) "Emergency medical services volunteer" has the
21 meaning assigned by Section 773.003, Health and Safety Code.

22 (4) "Emergency service organization" means any entity
23 established to provide for the public:

24 (A) fire prevention and suppression;

1 (B) hazardous materials response operations; or

2 (C) emergency medical services.

3 (5) "Employee" means an individual who is employed by
4 an employer for compensation.

5 (6) "Employer" means a person who employs 20 or more
6 employees. The term includes the state or a political subdivision
7 of the state.

8 (7) "Political subdivision" means a county,
9 municipality, special district, or authority of this state.

10 (8) "Volunteer emergency responder" means an
11 individual who is an active participant in an emergency service
12 organization but who does not receive compensation for the
13 individual's services. The term includes an emergency medical
14 services volunteer and a volunteer firefighter.

15 (9) "Volunteer fire department" has the meaning
16 assigned by Section 614.101, Government Code.

17 (10) "Volunteer firefighter" means an individual who
18 is a member of a volunteer fire department.

19 Sec. 24.002. DISCRIMINATION PROHIBITED; LIMITATION. (a)
20 Except as provided by this chapter, an employer may not terminate or
21 suspend the employment of, or in any other manner discriminate
22 against, an employee who is a volunteer emergency responder and who
23 is absent from or late to the employee's employment because the
24 employee is responding to a declared disaster in the employee's
25 capacity as a volunteer emergency responder.

26 (b) Notwithstanding Subsection (a), an employee who is a
27 volunteer emergency responder is not entitled under this chapter to

1 be absent from the employee's employment for more than 14 days in a
2 calendar year unless the employee's absence is approved by the
3 employer.

4 Sec. 24.003. NOTICE TO EMPLOYER. An employee who is a
5 volunteer emergency responder and who may be absent from or late to
6 employment because the employee is responding to a declared
7 disaster as a volunteer emergency responder shall make a reasonable
8 effort to notify the employer that the employee may be absent or
9 late. If the employee is unable to provide the notice due to the
10 extreme circumstances of the declared disaster or inability to
11 contact the employer, the employee shall submit to the employer, on
12 the employer's request, a written verification of participation in
13 activities in responding to a declared disaster that:

14 (1) is signed by the supervisor, or the designee of the
15 supervisor, of the entity for which the affected volunteer
16 emergency responder provides services or the applicable emergency
17 service organization; and

18 (2) states that the volunteer emergency responder
19 responded to a declared disaster and provides information regarding
20 the declared disaster.

21 Sec. 24.004. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME.

22 (a) An employer may reduce the wages otherwise owed to the employee
23 for any pay period because the employee took time off during that
24 pay period for an absence authorized by this chapter.

25 (b) In lieu of reducing an employee's wages under Subsection
26 (a), an employer may require an employee who is a volunteer
27 emergency responder to use existing vacation leave time, personal

1 leave time, or compensatory leave time for an absence authorized by
2 this chapter, except as otherwise provided by a collective
3 bargaining agreement.

4 (c) This section does not affect an employee's right to
5 wages or leave time under Section 661.905, Government Code.

6 Sec. 24.005. LIABILITY; REINSTATEMENT. An employee whose
7 employment is suspended or terminated in violation of this chapter
8 is entitled to:

9 (1) reinstatement to the employee's former position or
10 a position that is comparable in terms of compensation, benefits,
11 and other conditions of employment;

12 (2) compensation for wages lost during the period of
13 suspension or termination; and

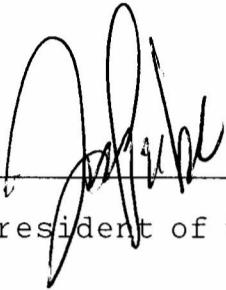
14 (3) reinstatement of any fringe benefits and seniority
15 rights lost because of the suspension or termination.

16 Sec. 24.006. CIVIL ACTION. (a) An employee whose employer
17 violates this chapter may bring a civil action against the employer
18 to enforce rights protected by this chapter.

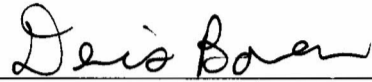
19 (b) An action under this section must be brought in the
20 county in which the place of employment is located not later than
21 the first anniversary of the date of the violation.

22 SECTION 2. Chapter 24, Labor Code, as added by this Act,
23 applies only to a cause of action that accrues on or after the
24 effective date of this Act. A cause of action that accrued before
25 the effective date of this Act is governed by the law applicable to
26 the cause of action immediately before the effective date of this
27 Act, and that law is continued in effect for that purpose.

1 SECTION 3. This Act takes effect September 1, 2019.



President of the Senate



Speaker of the House

I certify that H.B. No. 2348 was passed by the House on April 24, 2019, by the following vote: Yeas 126, Nays 19, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2348 on May 23, 2019, by the following vote: Yeas 122, Nays 16, 1 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 2348 was passed by the Senate, with amendments, on May 20, 2019, by the following vote: Yeas 27, Nays 4.



Secretary of the Senate

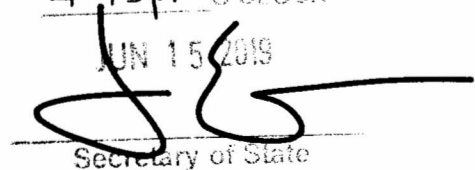
APPROVED: _____

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45pm CLOCK

JUN 15 2019



Secretary of State

PROCLAMATION
BY THE
Governor of the State of Texas
41-3656

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 2348 as passed by the Eighty-Sixth Texas Legislature, Regular Session, because of the following objections:

First responders play a vital role in disaster recovery, so I appreciate the good intentions of the author. But this does not mean we need to create a new civil cause of action so that employees who volunteer in disasters can sue their employers. House Bill 2348 would open the door to such lawsuits against both public and private employers. Employers have every incentive to accommodate their brave employees who serve as first responders, but they deserve the flexibility to develop their own leave policies for their employees, instead of having the State dictate the terms.

Since the Eighty-Sixth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2019.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT
Governor of Texas

ATTESTED BY:

A handwritten signature in black ink that reads "Joe Esparza".

JOE ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45pm O'CLOCK

JUN 15 2019