

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 40.1-27.5, relating to protection of*
 3 *employees; volunteer emergency responders; civil action.*

4 [S 100]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 40.1-27.5 as follows:**8 **§ 40.1-27.5. Retaliation against employee for absence due to serving as voluntary emergency responder**
 9 **prohibited.**

10 A. As used in this section:

11 "State of emergency" has the same meaning as provided in § 44-146.16.

12 "Volunteer emergency responder" means an active member in good standing of a volunteer fire
 13 department or volunteer emergency medical services agency or auxiliary unit thereof that has been
 14 recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where
 15 the volunteer fire department or volunteer emergency medical services agency is located as being a part of
 16 the safety program of such political subdivision.

17 B. No employer shall discharge, discipline, threaten, discriminate against, or penalize an employee or
 18 take other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges
 19 of employment solely because the employee fails to report for work at his place of employment because such
 20 employee is serving as a volunteer emergency responder (i) actively responding to an emergency alarm or
 21 (ii) during a state of emergency, provided that such employee provides the employer (a) notice that such
 22 employee is rendering emergency services in response to an emergency alarm or state of emergency at least
 23 one hour before such employee is scheduled to report for work and (b) upon returning to his place of
 24 employment, a copy of the incident report and a certification by the incident commander or other official or
 25 officer in charge affirming that such employee was actively engaged in and necessary for rendering such
 26 emergency services. Such certification shall include the date and time at which the employee was relieved
 27 from rendering emergency services. An employee who is actively engaged in rendering emergency services
 28 for more than one consecutive work day shall provide notice pursuant to clause (a) on each day such
 29 employee is absent from work.

30 C. No employer shall be required to pay an employee for any work time missed while such employee is
 31 serving as a volunteer emergency responder pursuant to this section. However, in lieu of taking unpaid time
 32 off for such service, such employee may use paid sick leave or other paid leave if such employee has accrued
 33 or is otherwise entitled to such leave.

34 D. No provision of this section shall apply to any employee who is deemed an essential employee by
 35 statute or contract.

36 E. A person who alleges a violation of this section may bring a civil action in a court of competent
 37 jurisdiction within one year of the employer's prohibited retaliatory action. The court may order as a remedy
 38 to the employee (i) an injunction to restrain continued violation of this section, (ii) the reinstatement of the
 39 employee to the same position held before the retaliatory action or to an equivalent position, and (iii)
 40 compensation for lost wages, benefits, and other remuneration, together with interest thereon, as well as
 41 reasonable attorney fees and costs.