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**SENATE BILL 5384**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Warnick and Short

1 AN ACT Relating to volunteer firefighters; amending RCW 49.12.460  
2 and 41.06.550; creating a new section; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** In 2020, wildfire swept across central  
5 Washington. In the aftermath, it was found that volunteer  
6 firefighters were not allowed to leave work to fight for their family  
7 homes simply because they would have been paid as wildland  
8 firefighters. The legislature finds that volunteer firefighters, even  
9 those compensated for wildland firefighting, should be allowed to  
10 leave work to protect their communities.

11 **Sec. 2.** RCW 49.12.460 and 2010 c 170 s 1 are each amended to  
12 read as follows:

13 (1) An employer may not discharge from employment or discipline:

14 (a) A volunteer firefighter or reserve officer because of leave  
15 taken related to an alarm of fire or an emergency call; or

16 (b) A civil air patrol member because of leave taken related to  
17 an emergency service operation.

18 (2)(a) A volunteer firefighter or reserve officer or civil air  
19 patrol member who believes he or she was discharged or disciplined in  
20 violation of this section may file a complaint alleging the violation

1 with the director. The volunteer firefighter or reserve officer or  
2 civil air patrol member may allege a violation only by filing such a  
3 complaint within ninety days of the alleged violation.

4 (b) Upon receipt of the complaint, the director must cause an  
5 investigation to be made as the director deems appropriate and must  
6 determine whether this section has been violated. Notice of the  
7 director's determination must be sent to the complainant and the  
8 employer within ninety days of receipt of the complaint.

9 (c) If the director determines that this section was violated and  
10 the employer fails to reinstate the employee or withdraw the  
11 disciplinary action taken against the employee, whichever is  
12 applicable, within thirty days of receipt of notice of the director's  
13 determination, the volunteer firefighter or reserve officer or civil  
14 air patrol member may bring an action against the employer alleging a  
15 violation of this section and seeking reinstatement or withdrawal of  
16 the disciplinary action.

17 (d) In any action brought under this section, the superior court  
18 shall have jurisdiction, for cause shown, to restrain violations  
19 under this section and to order reinstatement of the employee or  
20 withdrawal of the disciplinary action.

21 (3) For the purposes of this section:

22 (a) "Alarm of fire or emergency call" means responding to,  
23 working at, or returning from a fire alarm or an emergency call, but  
24 not participating in training or other nonemergency activities.

25 (b) "Civil air patrol member" means a person who is a member of  
26 the Washington wing of the civil air patrol.

27 (c) "Emergency service operation" means the following operations  
28 of the civil air patrol:

29 (i) Search and rescue missions designated by the air force rescue  
30 coordination center;

31 (ii) Disaster relief, when requested by the federal emergency  
32 management agency or the department of homeland security;

33 (iii) Humanitarian services, when requested by the federal  
34 emergency management agency or the department of homeland security;

35 (iv) United States air force support designated by the first air  
36 force; and

37 (v) Counterdrug missions.

38 (d) "Employer" means an employer who had twenty or more full-time  
39 equivalent employees in the previous year.

1 (e) "Reinstatement" means reinstatement with back pay, without  
2 loss of seniority or benefits, and with removal of any related  
3 adverse material from the employee's personnel file, if a file is  
4 maintained by the employer.

5 (f) "Withdrawal of disciplinary action" means withdrawal of  
6 disciplinary action with back pay, without loss of seniority or  
7 benefits, and with removal of any related adverse material from the  
8 employee's personnel file, if a file is maintained by the employer.

9 (g) "Volunteer firefighter" means a firefighter covered under  
10 chapter 41.24 RCW who:

11 (i) (~~(Is not paid)~~) Performs voluntarily any assigned or  
12 authorized duties on behalf of or at the direction of a fire  
13 protection district including but not limited to service pursuant to  
14 RCW 43.43.961 regardless of reimbursement;

15 (ii) (~~(Is not already at his or her place of employment when~~  
16 ~~called to serve as a volunteer, unless the employer agrees to provide~~  
17 ~~such an accommodation)) has notified their employer of their  
18 firefighter status and arranged for leave if mobilized; and~~

19 (iii) Has been ordered to remain at his or her position by the  
20 commanding authority at the scene of the fire.

21 (h) "Reserve officer" has the meaning provided in RCW 41.24.010.

22 (4) The legislature declares that the public policies articulated  
23 in this section depend on the procedures established in this section  
24 and no civil or criminal action may be maintained relying on the  
25 public policies articulated in this section without complying with  
26 the procedures set forth in this section, and to that end all civil  
27 actions and civil causes of action for such injuries and all  
28 jurisdiction of the courts of this state over such causes are hereby  
29 abolished, except as provided in this section.

30 **Sec. 3.** RCW 41.06.550 and 2007 c 112 s 1 are each amended to  
31 read as follows:

32 (~~(An)~~) Pursuant to RCW 49.12.460, an agency must allow an  
33 employee who is a volunteer firefighter to respond(~~(, without pay,)~~)  
34 to a fire, natural disaster, or medical emergency when called to  
35 duty. The agency may choose to grant leave with pay.

36 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
37 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect immediately.

--- **END** ---