

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5384

Chapter 105, Laws of 2021

67th Legislature
2021 Regular Session

VOLUNTEER FIREFIGHTERS—DEFINITION—EMPLOYMENT PROTECTION

EFFECTIVE DATE: April 16, 2021

Passed by the Senate February 23,
2021

Yeas 49 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 6, 2021

Yeas 98 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved April 16, 2021 11:00 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5384** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

April 16, 2021

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5384

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Warnick, Short, and Wilson, L.)

READ FIRST TIME 02/12/21.

1 AN ACT Relating to volunteer firefighters; amending RCW
2 49.12.460; 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;~~

12 ~~(ii) Is not already at his or her place of employment when called~~
13 ~~to serve as a volunteer, unless the employer agrees to provide such~~
14 ~~an accommodation; and~~

15 ~~(iii) Has~~) (i) Voluntarily performs, regardless of
16 reimbursement, any assigned or authorized duties on behalf of or at
17 the direction of a firefighting or emergency response unit of a city,
18 county, fire district, regional fire protection district, port
19 district, or the state, including but not limited to service pursuant
20 to RCW 43.43.960 through 43.43.975; and

21 (ii) (A) Has notified their employer of their firefighter status
22 and intent to serve as a volunteer if already at the place of
23 employment when called to serve as a volunteer; or

24 (B) If not already at the place of employment when called to
25 serve as a volunteer, has been ordered to remain at ((his or her))
26 their position by the commanding authority at the scene of the fire.

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

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

36 NEW SECTION. Sec. 3. This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of
38 the state government and its existing public institutions, and takes
39 effect immediately.

Passed by the Senate February 23, 2021.
Passed by the House April 6, 2021.
Approved by the Governor April 16, 2021.
Filed in Office of Secretary of State April 16, 2021.

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