

047260456

HOUSE BILL NO. 803

Offered January 14, 2004

Prefiled January 14, 2004

A *BILL to amend and reenact §§ 9.1-700 through 9.1-704 of the Code of Virginia, relating to overtime compensation for law-enforcement officers.*

Patron—Petersen

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 9.1-700 through 9.1-704 of the Code of Virginia are amended and reenacted as follows:**
§ 9.1-700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employer" means any political subdivision of the Commonwealth, including any county, city, town, authority, or special district that employs *law-enforcement officers* or fire protection employees except any locality with five or fewer paid *law-enforcement officers* or firefighters that is exempt from overtime rules by 29 U.S.C. § 207 (k).

"Fire protection employee" means any person, other than an employee who is exempt from the overtime provisions of the Fair Labor Standards Act, who is employed by an employer as a paid firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker who is (i) trained in fire suppression and has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of an employer, and (ii) engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

"*Law-enforcement officer*" shall have the same meaning as provided in § 9.1-101.

"Regularly scheduled work hours" means those hours that are recurring and fixed within the work period and for which an *officer* or employee receives a salary or hourly compensation. "Regularly scheduled work hours" does not include on-call, extra duty assignments or any other nonrecurring and nonfixed hours.

§ 9.1-701. Overtime compensation rate.

A. Employers shall pay *law-enforcement officers* and fire protection employees overtime compensation or leave, as under the Fair Labor Standards Act, 29 U.S.C. § 207 (o), at a rate of not less than one and one-half times the *officer's* or employee's regular rate of pay for all hours of work between the statutory maximum permitted under 29 U.S.C. § 207 (k) and the hours for which an *officer* or employee receives his salary, or if paid on an hourly basis, the hours for which the *officer* or employee receives hourly compensation. A *law-enforcement officer* or fire protection employee who is paid on an hourly basis shall have paid leave counted as hours of work in an amount no greater than the numbers of hours counted for other *law-enforcement officers* or fire protection employees working the same schedule who are paid on a salaried basis in that jurisdiction.

B. Nothing in this chapter shall be construed to affect the right of any employer to provide overtime compensation to *law-enforcement officers* or fire protection employees in an amount that exceeds the amounts required by this section.

§ 9.1-702. Work period.

Employers may adopt any work period to compute overtime compensation for *law-enforcement officers* or fire protection employees between seven and ~~twenty-eight~~ 28 days provided that the work period is recurring and fixed, and is not changed for purposes of denying overtime compensation to such *officers* or employees to which they may be entitled under subsection A of § 9.1-701.

§ 9.1-703. Hours of work.

For purposes of computing *law-enforcement officers'* or fire protection employees' entitlement to overtime compensation, all hours that an *officer* or employee works or is in a paid status during his regularly scheduled work hours shall be counted as hours of work.

§ 9.1-704. Employee's remedies; award of attorneys' fees and costs.

A. In an action brought under this chapter, an employer who violates the provisions of this chapter shall be liable to the *law-enforcement officer* or fire protection employee affected in an amount of double the amount of the unpaid compensation due such employee. However, if the employer can prove that his violation was in good faith, he shall be liable only for the amount of the unpaid compensation plus interest at the rate of eight percent per year, commencing on the date the compensation was due to the *officer* or employee.

INTRODUCED

HB803

59 B. Where the *law-enforcement officer or* fire protection employee prevails, the court shall award him
60 attorneys' fees and costs to be paid by the employer.