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HOUSE BILL NO. 1368

Offered January 9, 2013

Prefiled December 6, 2012

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:4, relating to employees summoned to report for jury duty.

Patrons—Scott, J.M.

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:4 as follows:

§ 40.1-28.7:4. Employees summoned to report for jury duty.

A. An employee who (i) receives a summons directing him to appear in any federal court or court of the Commonwealth for jury duty and (ii) provides his immediate supervisor, on the next day the employee is engaged in employment, with the original or a photocopy of the summons, shall be excused by his employer from employment for each day the employee's service as a juror exceeds three hours.

B. If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, the employee shall also be excused from employment as provided by this section for the shift immediately preceding the employee's first day of service. After the first day of service, when the person's responsibility for jury duty exceeds three hours during a day, the person whose circumstances fall within the parameters of this subsection shall be excused from the person's next scheduled work period occurring within 24 hours of that day of jury service. Any question concerning the application of this subsection to a particular work shift or shifts shall be conclusively resolved by the trial judge of the court to which the employee has been summoned.

C. Notwithstanding the excused absence as provided in subsection A, the employee shall be entitled to the employee's usual compensation received from such employment. However:

1. The employer has the discretion to deduct the amount of the fee or compensation the employee receives for serving as a juror;

2. No employer shall be required to compensate an employee for more time than was actually spent serving and traveling to and from jury duty; and

3. If an employer employs fewer than five people on a regular basis or if the juror has been employed by an employer on a temporary basis for less than six months, the employer is not required to compensate the juror during the period of jury service pursuant to this section.

D. Persons paying jurors their fee or compensation for jury service shall (i) issue to each juror a statement showing the daily fee or compensation and the total amount of fees or compensation received by the juror and (ii) provide a juror with a statement showing the number of hours the juror spent serving each day if the juror or juror's employer requests such a statement prior to the service at issue.

E. No employer shall discharge or in any manner discriminate against an employee for serving on a jury if the employee, prior to taking time off, gives the required notice pursuant to subsection A.

F. Any employee who is discharged, demoted, or suspended because the employee has taken time off for jury duty is entitled to reinstatement and reimbursement for lost wages and work benefits caused by violations by the employer of requirements of this section. If the employee prevails in a proceeding under this section, he also may be awarded reasonable attorney fees and court costs.

G. For the purposes of this section, "employer" includes the Commonwealth and any locality.

INTRODUCED

HB1368