

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 190

H.P. 141

House of Representatives, January 13, 2005

An Act Relating to the Treatment of Employers and Military Personnel in Connection with "Call to Duty" Activity

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FISHER of Brewer.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: BLANCHETTE of Bangor, BOWLES of Sanford, CANAVAN of Waterville,
CRESSEY of Cornish, HOTHAM of Dixfield, JACKSON of Fort Kent, PATRICK of
Rumford, Senator: COURTNEY of York.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 26 MRSA c. 7, sub-c. 5.** as amended, is further amended
6 by repealing the subchapter headnote and enacting the following
8 in its place:

10 **SUBCHAPTER 5**

12 **MILITARY LEAVE OF ABSENCE**

14 **Sec. 2. 26 MRSA §812, sub-§1.** as enacted by PL 2001, c. 662,
16 §12, is amended to read:

18 **1. Benefits accrual.** ~~Absence---for---military---training~~
Military leave of absence as described in section 811 does not
20 affect the employee's right to receive normal vacation, sick
22 leave, bonus, advancement and other advantages of employment
24 normally to be anticipated in the employee's particular position.

26 **Sec. 3. 26 MRSA §812, sub-§2. ¶B.** as enacted by PL 2001, c.
28 662, §12, is amended to read:

30 **B.** After the expiration of the first 30 days of military
32 leave of absence, the member of the National Guard or the
34 Reserves of the United States Armed Forces has the option of
36 continuing the health, dental and life insurance benefits in
38 effect at the member's own expense by paying the insurance
40 premium at the same rates as paid by the employer.

42 **Sec. 4. 26 MRSA §1221, sub-§3. ¶A.** as amended by PL 1983, c.
44 650, §2, is further amended to read:

46 **A.** At the time the status of an employing unit is
48 ascertained to be that of an employer, the commissioner
shall establish and ~~thereafter~~ maintain, until such the
employer status is terminated, for ~~each-such~~ the employer an
"experience rating record," to which ~~shall-be~~ are credited
all the contributions ~~which~~ that the employer ~~thereafter~~
pays on ~~his~~ the employer's own behalf. ~~Nothing-in-this~~ This
chapter ~~shall~~ may not be construed to grant any employer or
individuals in ~~his~~ the employer's service prior claims or
rights to the amounts paid by ~~him~~ the employer into the
fund. Benefits paid to an eligible individual under the
Maine Employment Security Law ~~shall~~ must be charged against
the "experience rating record" of the claimant's most recent
subject employer or to the General Fund if the otherwise
chargeable "experience rating record" is that of an employer
whose status as such has been terminated; except that no
charge ~~shall~~ may be made to an individual employer but ~~shall~~

2 of unemployment benefit charges resulting from layoffs that occur
3 as a result of personnel returning from military leaves of
4 absence. Employers must hold positions for workers who are
5 called to active duty so that they are guaranteed work when their
6 military duty assignments are completed. In some cases,
7 employers find they need to hire replacement workers to keep the
8 business going until the former employees return. Under current
9 law, if the return of the active military personnel causes the
10 replacement workers to be laid off, the laid-off workers receive
11 unemployment benefits, and the employer's unemployment tax
12 experience rating is charged, potentially resulting in a tax
13 increase to the employer. This bill relieves the employer of
14 benefit charges under these circumstances. The second provision
15 clarifies the law concerning the right of National Guard and
16 reserve members on military leave of absence to retain normal
17 vacation, sick leave, bonus, advancement and any other benefits
18 related to normal employment in those employees' particular
positions.