



## **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.

Mullicent M. Mac Jarland

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.

	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 36 MDSA = 7 autor 5
Λ	Sec. 1. 26 MRSA c. 7, sub-c. 5, as amended, is further amended
4	by repealing the subchapter headnote and enacting the following in its place:
6	In its place:
0	SUBCHAPTER 5
8	<u>BUDCHALINK</u>
Ç	MILITARY LEAVE OF ABSENCE
10	
	Sec. 2. 26 MRSA §812. sub-§1. as enacted by PL 2001, c. 662,
12	§12, is amended to read:
14	1. Benefits accrual. Absenceformilitarytraining
	Military leave of absence as described in section 811 does not
16	affect the employee's right to receive normal vacation, sick
1.0	leave, bonus, advancement and other advantages of employment
18	normally to be anticipated in the employee's particular position.
20	Sec. 3. 26 MRSA §812, sub-§2, ¶B, as enacted by PL 2001, c.
20	662, §12, is amended to read:
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	B. After the expiration of the first 30 days of military
24	leave of absence, the member of the National Guard or the
	Reserves of the United States Armed Forces has the option of
26	continuing the health, dental and life insurance benefits in
	effect at the member's own expense by paying the insurance
28	premium at the same rates as paid by the employer.
20	See 4 36 MDSA \$1221 aub \$2 44 and a second a bur Dt 1002
30	Sec. 4. 26 MRSA §1221. sub-§3. $\P A$ . as amended by PL 1983, c. 650, §2, is further amended to read:
32	050, yz, is fulcher amended to read:
52	A. At the time the status of an employing unit is
34	ascertained to be that of an employer, the commissioner
	shall establish and thereafter maintain, until such the
36	employer status is terminated, for each-such the employer an
	"experience rating record," to which shall-be are credited
38	all the contributions which that the employer thereafter
	pays on his the employer's own behalf. Nothing-in-this This
40	chapter shall <u>may not</u> be construed to grant any employer or individuals in his <u>the employer's</u> service prior claims or
42	rights to the amounts paid by him the employer into the
15	fund. Benefits paid to an eligible individual under the
44	Maine Employment Security Law shall must be charged against
	the "experience rating record" of the claimant's most recent
46	subject employer or to the General Fund if the otherwise
	chargeable "experience rating record" is that of an employer
48	whose status as such has been terminated; except that no
	charge <b>shall <u>may</u> be made to an individual employer but shal</b> l

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<u>must</u> be made to the General Fund if the commission finds that: (1) Claimant's <u>The claimant's</u> separation from his <u>the</u> <u>claimant's</u> last employer was for misconduct in

- 6 connection with his <u>the claimant's</u> employment, or was voluntary without good cause attributable to such <u>the</u> 8 employer;
- 10 (2) Claimant <u>The claimant</u> has refused to accept reemployment in suitable work when offered by a
   12 previous employer, without good cause attributable to such <u>the</u> employer;
- (3) Benefits paid are not chargeable against any
   employer's experience rating record in accordance with section 1194, subsection 11, paragraphs B and C;
- (5) Reimbursements are made to a state, the Virgin
  20 Islands or Canada for benefits paid to a claimant under a reciprocal benefits arrangement as authorized in
  22 section 1082, subsection 12; previded-that as long as the wages of the claimant transferred to such the other
  24 state, the Virgin Islands or Canada under such an arrangement are less than the amount of wages for
  26 insured work required for benefit purposes by section 1192, subsection 5; er

(6)Claimant The claimant was hired by his the claimant's last employer to fill a position left open 30 by a Legislator given a leave of absence under chapter 32 7, subchapter V-A 5-A, and the claimant's separation from this employer was because the employer restored Legislator to the after 34 position the his theLegislator's leave of absence as required by chapter 7, 36 subchapter V-A- 5-A; or

 (7) The claimant was hired by the claimant's last employer to fill a position left open by an individual
 who left to enter active duty in the United States military, and the claimant's separation from this
 employer was because the employer restored the military serviceperson to the person's former employment upon
 separation from military service.

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## **SUMMARY**

This bill addresses 2 situations related to military leaves 50 of absence. The first provision of the bill relieves employers

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