

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1747

S.P. 664

In Senate, December 30, 2005

An Act To Assist Maine Military Families

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 28, 2005. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator SCHNEIDER of Penobscot.
Cosponsored by Representative FISHER of Brewer and
Senators: BRENNAN of Cumberland, DAMON of Hancock, Representatives: CAIN of Orono,
CUMMINGS of Portland, DUNN of Bangor, FAIRCLOTH of Bangor.

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C. "Employer" means:

(1) Any person, partnership, corporation, association or other business entity; and

(2) The State, a county, a municipality or any political subdivision.

D. "Family military leave" means leave requested by an employee who is the spouse or parent of a person who is a Maine resident and is called to military service lasting longer than 180 days with the State or United States pursuant to the orders of the Governor or the President of the United States.

2. Family military leave requirement. Subject to the requirements of subsection 3, an employer that employs 50 or more employees shall provide up to 15 days per year of family military leave to an employee during the time federal or state deployment orders are in effect for the spouse or child of the employee. Family military leave granted under this section may consist of unpaid leave.

3. Notice requirements. An employee taking family military leave under this section is subject to the following.

A. The employee must give at least 14 days' notice of the intended date upon which the family military leave will commence if leave will consist of 5 or more consecutive work days.

B. An employee taking family military leave for fewer than 5 consecutive work days must give the employer advance notice as is practicable.

C. The employee shall consult with the employer to attempt to schedule the leave so as to not unduly disrupt the operations of the employer.

4. Certification. An employer may require certification from the proper military authority to verify an employee's eligibility for the family military leave requested pursuant to this section.

5. Other leave exhausted. An employee may take family military leave under this section only if the employee has exhausted all accrued vacation leave, personal leave, compensatory leave and any other leave, except sick leave and disability leave, that may be granted to the employee.

2 6. Restoration to position. An employee who exercises the
3 right to family military leave under this section is entitled,
4 upon expiration of the leave, to be restored by the employer to
5 the position held by the employee when the leave commenced or to
6 a position with equivalent seniority status, employee benefits,
7 pay and other terms and conditions of employment. This subsection
8 does not apply if the employer proves that the employee was not
9 restored as provided in this subsection because of conditions
10 unrelated to the employee's exercise of rights under this section.

11 7. Employee benefits protection. An employer shall make it
12 possible for an employee to continue employee benefits at the
13 employee's expense during any family military leave taken under
14 this section. The employer and employee may negotiate for the
15 employer to maintain employee benefits at the employer's expense
16 for the duration of the leave.

17 A. Taking family military leave under this section does not
18 result in the loss of any employee benefit accrued before
19 the date on which the leave commenced.

20 B. Nothing in this section may be construed to affect an
21 employer's obligation to comply with any collective
22 bargaining agreement or employee benefit plan that provides
23 greater leave rights to employees than the rights provided
24 under this section.

25 C. The family military leave rights provided under this
26 section may not be diminished by any collective bargaining
27 agreement or employee benefit plan.

28 D. Nothing in this section may be construed to affect or
29 diminish the contract rights or seniority status of any
30 other employee of any employer covered under this section.

31 8. Prohibited acts. An employer may not:

32 A. Interfere with, restrain or deny the exercise or the
33 attempt to exercise any right provided under this section;

34 B. Discharge, fine, suspend, expel, discipline or in any
35 other manner discriminate against any employee who exercises
36 any right provided under this section; or

37 C. Discharge, fine, suspend, expel, discipline or in any
38 other manner discriminate against any employee for opposing
39 any practice made unlawful by this section.

40 9. Enforcement. An employee may bring a civil action in
41 Superior Court to enforce this section. The court may enjoin any
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2 act or practice that violates or may violate this section and may
3 order any other equitable relief that is necessary and
4 appropriate to redress the violation or to enforce this section.

6 **Emergency clause.** In view of the emergency cited in the
7 preamble, this Act takes effect when approved.

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9 **SUMMARY**

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11 This bill, modeled after recently enacted law in Illinois,
12 requires that businesses with 50 or more employees give up to 15
13 days of leave, which may be unpaid, for spouses and parents of
14 Maine residents who are serving in the military after those
employees' other leave balances have been used.