



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.

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. Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, with the continued and ongoing deployment of Maine residents to active military duty, it is necessary that the leave authorized by this legislation become immediately available to the family members of those residents; and

10 Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of 12 Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and 14 safety; now, therefore,

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

18 Sec. 1. 26 MRSA c. 7. sub-c. 5, as amended, is further amended by repealing the subchapter headnote and enacting the following 20 in its place:

SUBCHAPTER 5

LEAVE RELATING TO RESERVE TRAINING OR MILITARY SERVICE

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Sec. 2. 26 MRSA §814 is enacted to read:

- <u>§814. Family military leave</u>
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Definitions. As used in this section, unless the
 32 context otherwise indicates, the following terms have the following meanings.

 A. "Employee" means any person who may be permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment and who has been employed by the same employer for at least 12 months and has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the employee's family military leave. "Employee" includes an independent contractor.

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B. "Employee benefits" means all benefits, other than salary
46 and wages, provided or made available to employees by an employer and includes group life insurance, health
48 insurance, disability insurance and pensions, regardless of whether benefits are provided by a policy or practice of an employer.

2	<u>C. "Employer" means:</u>
4	(1) Any person, partnership, corporation, association or other business entity; and
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8	<u>(2) The State, a county, a municipality or any political subdivision.</u>
10	D. "Family military leave" means leave requested by an employee who is the spouse or parent of a person who is a
12	<u>Maine resident and is called to military service lasting</u> longer than 180 days with the State or United States
14	pursuant to the orders of the Governor or the President of the United States.
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	2. Family military leave requirement. Subject to the
18	requirements of subsection 3, an employer that employs 50 or more employees shall provide up to 15 days per year of family military
20	leave to an employee during the time federal or state deployment orders are in effect for the spouse or child of the employee.
22	Family military leave granted under this section may consist of unpaid leave.
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26	3. Notice requirements. An employee taking family military leave under this section is subject to the following.
28	A. The employee must give at least 14 days' notice of the intended date upon which the family military leave will
30	<u>commence if leave will consist of 5 or more consecutive work</u> <u>days.</u>
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34	B. An employee taking family military leave for fewer than 5 consecutive work days must give the employer advance notice as is practicable.
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38	C. The employee shall consult with the employer to attempt to schedule the leave so as to not unduly disrupt the
40	operations of the employer.
40	4. Certification. An employer may require certification from
42	the proper military authority to verify an employee's eligibility for the family military leave requested pursuant to this section.
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46	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,
48	compensatory leave and any other leave, except sick leave and disability leave, that may be granted to the employee.
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	6. Restoration to position. An employee who exercises the
2	right to family military leave under this section is entitled,
	upon expiration of the leave, to be restored by the employer to
4	the position held by the employee when the leave commenced or to
	a position with equivalent seniority status, employee benefits,
6	pay and other terms and conditions of employment. This subsection
	does not apply if the employer proves that the employee was not
8	restored as provided in this subsection because of conditions
	unrelated to the employee's exercise of rights under this section.
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	7. Employee benefits protection. An employer shall make it
12	possible for an employee to continue employee benefits at the
	employee's expense during any family military leave taken under
14	this section. The employer and employee may negotiate for the
	employer to maintain employee benefits at the employer's expense
16	for the duration of the leave.
18	A. Taking family military leave under this section does not
	result in the loss of any employee benefit accrued before
20	the date on which the leave commenced.
22	<u>B. Nothing in this section may be construed to affect an</u>
	employer's obligation to comply with any collective
24	bargaining agreement or employee benefit plan that provides
	greater leave rights to employees than the rights provided
26	under this section.
28	C. The family military leave rights provided under this
• •	section may not be diminished by any collective bargaining
30	agreement or employee benefit plan.
2.2	D. Nothing in this section now be construed to offect on
32	D. Nothing in this section may be construed to affect or
2.4	diminish the contract rights or seniority status of any
34	other employee of any employer covered under this section.
26	9 Drobibited sets in employer may not:
36	8. Prohibited acts. An employer may not:
38	A. Interfere with, restrain or deny the exercise or the
30	attempt to exercise any right provided under this section;
40	accempt to exercise any right provided under this section,
4 0	B. Discharge, fine, suspend, expel, discipline or in any
42	other manner discriminate against any employee who exercises
72	any right provided under this section; or
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• •	C. Discharge, fine, suspend, expel, discipline or in any
46	other manner discriminate against any employee for opposing
	any practice made unlawful by this section.
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	9. Enforcement. An employee may bring a civil action in
50	Superior Court to enforce this section. The court may enjoin any

	act or practice that violates or may violate this section and may
2	order any other equitable relief that is necessary and
	appropriate to redress the violation or to enforce this section.
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	Emergency clause. In view of the emergency cited in the
6	preamble, this Act takes effect when approved.
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	SUMMARY
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10	This bill, modeled after recently enacted law in Illinois,
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	This bill, modeled after recently enacted law in Illinois, requires that businesses with 50 or more employees give up to 15
12	This bill, modeled after recently enacted law in Illinois, requires that businesses with 50 or more employees give up to 15 days of leave, which may be unpaid, for spouses and parents of
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