



597250

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2009	.	
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The Committee on Judiciary (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete lines 53 - 75

and insert:

(2) (a) Upon the completion of state active duty, a member of the National Guard shall promptly notify the employer of his or her intent to return to work.

(b) An employer is not required to allow a member of the National Guard to return to work under this section if:

1. The employer's circumstances have so changed as to make employment impossible or unreasonable;

2. Employment would impose an undue hardship on the employer;



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13 3. The employment from which the member of the National
14 Guard leaves to serve in state active duty is for a brief,
15 nonrecurrent period and there is no reasonable expectation that
16 such employment will continue indefinitely or for a significant
17 period; or

18 4. The employer had legally sufficient cause to terminate
19 the member of the National Guard at the time he or she left for
20 state active duty.

21
22 The employer has the burden of proving the impossibility or
23 unreasonableness, undue hardship, the brief or nonrecurrent
24 nature of the employment without a reasonable expectation of
25 continuing indefinitely or for a significant period, or the
26 legally sufficient cause to terminate the person at the time he
27 or she left for state active duty.

28 (c) A member of the National Guard who returns to work
29 after serving on state active duty is entitled to:

30 1. The seniority that the member had at his or her place of
31 employment on the date of the commencement of his or her state
32 active duty and any other rights and benefits that inure to the
33 member as a result of such seniority; and

34 2. Any additional seniority that the member would have
35 attained at his or her place of employment if he or she had
36 remained continuously employed and the rights and benefits that
37 inure to the member as a result of such seniority.

38 (d) A member of the National Guard who returns to work
39 after serving on state active duty may not be discharged from
40 such employment for a period of one year after the date the
41 member returns to work, except for cause.



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42 (e) An employer may not require any National Guard member
43 returning to employment following a period of state active duty
44 service to use vacation, annual, compensatory, or similar leave
45 for the period during which the member was ordered into state
46 active duty. However, any such returning member shall, upon his
47 or her request, be permitted to use, for the period during which
48 the member was ordered into state active duty, any vacation,
49 annual, compensatory, or similar leave with pay accrued by the
50 member prior to the commencement of his or her state active duty
51 service.

52
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete line 7

56 and insert:

57 ordered into state active duty by employers; requiring National
58 Guard members to notify employers of intent to return to work;
59 providing exceptions under which employers are not required to
60 allow such members to return to work; providing