

1 H.805

2 Introduced by Representatives Grad of Moretown, Canfield of Fair Haven,
3 Donovan of Burlington, Partridge of Windham, Ram of
4 Burlington, Strong of Albany, and Tate of Mendon

5 Referred to Committee on

6 Date:

7 Subject: Labor; employment practices; employment rights for reserve and
8 National Guard members

9 Statement of purpose of bill as introduced: This bill proposes to permit
10 Vermont employees that serve in another state's National Guard to retain their
11 civilian employer-sponsored health insurance if ordered to state active duty
12 and to clarify the relief available through a civil action for a member of the
13 National Guard or a Reserve Component of the U.S. Armed Forces whose
14 employment or reemployment rights are violated.

15 An act relating to employment rights for members of the National Guard
16 and Reserve Components of the U.S. Armed Forces

17 It is hereby enacted by the General Assembly of the State of Vermont:

18 ~~Sec. 1. 21 V.S.A. § 492 is amended to read:~~

19 § 492. RIGHTS AND BENEFITS

20 * * *

1 ~~(e)(1) If any member of the Vermont National Guard with civilian~~
2 employer-sponsored insurance coverage is ordered to State active duty by the
3 Governor for up to 30 days, or if any member of the National Guard of another
4 state who is a Vermont employee with civilian employer-sponsored insurance
5 is ordered to state active duty by the governor of that state for up to 30 days,
6 the service member may, at the member's option, continue his or her civilian
7 health insurance under the same terms and conditions as were in effect for the
8 month preceding the member's call to State active duty, including a
9 continuation of the same levels of employer and employee contributions
10 toward premiums and cost-sharing.

11 (2) If a member of the Vermont National Guard is called to State active
12 duty for more than 30 days, or if a member of the National Guard of another
13 state who is a Vermont employee is called to state active duty for more than 30
14 days, the member may continue his or her civilian health insurance. For a
15 member whose employer chooses not to continue regular contributions toward
16 premiums and cost-sharing during the period of the member's State active duty
17 in excess of 30 days, the State of Vermont shall be responsible for paying the
18 employer's share of the premium and cost-sharing.

19 * * *

1 ~~Sec. 2. 21 V.S.A. § 493 is amended to read:~~

2 § 493. ENFORCEMENT

3 (a) If any employer fails to comply with any of the provisions of this
4 subchapter, the employee may bring an action at law for damages for
5 noncompliance, or apply to the superior court for equitable relief as may be
6 just and proper under the circumstances in the Civil Division of the Superior
7 Court seeking compensatory and punitive damages or equitable relief,
8 including restraint of prohibited acts, restitution of wages or other benefits,
9 reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

10 * * *

11 Sec. 3. EFFECTIVE DATE

12 ~~This act shall take effect on July 1, 2016.~~

Sec. 1. 21 V.S.A. § 491 is amended to read:

§ 491. ABSENCE ON MILITARY SERVICE AND TRAINING;

EMPLOYMENT AND REEMPLOYMENT RIGHTS

*(a) Any duly qualified member of the “~~reserve components of the armed~~
~~forces,” Reserve Components of the U.S. Armed Forces, of the ready reserve~~
~~Ready Reserve, or an organized unit of the national guard~~ Vermont National
Guard or the National Guard of another state shall upon request be entitled to
leaves of absence for a total of 15 days in any calendar year for the purpose of
engaging in military drill, training, or other temporary duty under military*

authority. A leave of absence shall be with or without pay as determined by the employer. Upon completion of the military drill, training, or other temporary duty under military authority, a permanent employee shall be reinstated in that position with the same status, pay, and seniority, including seniority that accrued during the period of absence.

* * *

(c) An employer shall not discriminate in employment against any person because a person has taken any of the following actions:

(1) ~~Enforcement~~ enforcement of a provision of this ~~subsection~~ subchapter or federal law.;

(2) ~~Testified~~ testified or made a statement in connection with any proceeding under this ~~subsection~~ subchapter or under federal law.;

(3) ~~Assisted~~ assisted or participated in any investigation under this ~~subsection~~ subchapter or federal law.; or

(4) ~~Exercised~~ exercised any right provided by this ~~subsection~~ subchapter or under federal law.

Sec. 2. 21 V.S.A. § 492 is amended to read:

§ 492. RIGHTS AND BENEFITS

* * *

(c)(1) If any member of the Vermont National Guard with civilian employer-sponsored insurance coverage is ordered to State active duty by the

Governor for up to 30 days, or if any member of the National Guard of another state who is a Vermont employee with civilian employer-sponsored insurance is ordered to state active duty by the governor of that state for up to 30 days, the service member may, at the member's option, continue his or her civilian health insurance under the same terms and conditions as were in effect for the month preceding the member's call to State active duty, including a continuation of the same levels of employer and employee contributions toward premiums and cost-sharing.

(2) If a member of the Vermont National Guard is called to State active duty for more than 30 days, or if a member of the National Guard of another state who is a Vermont employee is called to state active duty for more than 30 days, the member may continue his or her civilian health insurance. For a member whose employer chooses not to continue regular contributions toward premiums and cost-sharing during the period of the member's State active duty in excess of 30 days, the State of Vermont shall be responsible for paying the employer's share of the premium and cost-sharing.

* * *

Sec. 3. 21 V.S.A. § 493 is amended to read:

§ 493. ENFORCEMENT

(a) If any employer fails to comply with any of the provisions of this subchapter, the employee may bring an action ~~at law for damages for~~

~~*noncompliance, or apply to the superior court for equitable relief as may be just and proper under the circumstances in the Civil Division of the Superior Court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or other benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.*~~

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Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.