

## **Worker's Compensation Reinstatement Statutes, Court cases, Posters**

### **21 V.S.A. §643b. Reinstatement; seniority and benefits protected**

(a) For purposes of this section:

(1) "Employer" shall be defined as provided in section 601 of this title provided that this section shall only apply to employers who regularly employ at least 10 employees of whom at least 10 work more than 15 hours per week.

(2) "Recovery" means that the worker can reasonably be expected to perform safely the duties of his or her prior position or an alternative suitable position.

(b) The employer of a worker disabled by an injury compensable under this chapter shall reinstate the worker when his or her inability to work ceases provided recovery occurs within two years of the onset of the disability. A worker who recovers within two years of the onset of the disability shall be reinstated in the first available position suitable for the worker given the position the worker held at the time of the injury.

(c) Upon reinstatement a worker shall regain seniority and any unused annual leave, personal leave, sick leave, and compensatory time he or she was entitled to prior to the interruption in employment, less any leave and compensatory time used during the period of interruption.

(d) The provisions of this section shall not apply if:

(1) the worker had been given notice, or had given notice, prior to sustaining the injury that employment would terminate;

(2) employment would have terminated of its own terms prior to any reinstatement the worker would otherwise be entitled to under this section;

(3) the worker fails to keep the employer informed of:

(A) his or her continuing interest in reinstatement;

(B) his or her recovery;

(C) any change of his or her mailing address.

(e) A worker aggrieved by an employer's failure to comply with the provisions of this section may bring an action in the Superior Court in the county in which the worker or the employer resides for damages, including punitive damages, for noncompliance and may apply for such equitable relief as may be just and proper under the circumstances. A copy of the complaint shall be filed with the Commissioner. The Court shall award reasonable attorney's fees to the plaintiff if he or she prevails.

(Added 1987, No. 105, § 1.)

**21 V.S.A. § 643c. Commissioner to provide notice; monitoring**

The Commissioner shall notify the employer and worker of the provisions of section 643b of this title as soon as a claim is filed if, in the Commissioner's opinion, it appears that they will be affected by the requirement for reinstatement. The Commissioner shall also request that such workers and employers supply, on a voluntary basis, information concerning requests for reinstatement, reinstatement of disabled workers, and the extent to which recourse is being sought under that section.

(Added 1987, No. 105, § 2.)

# NOTICE

## Workers' Compensation Reinstatement Rights

### VERMONT LAW REQUIRES POSTING OF THIS NOTICE

21 VSA §643b Reinstatement; seniority and benefits protected

This law provides that an employer who regularly employs **ten or more** people (at least 10 of whom work more than 15 hours a week), has an obligation to rehire a worker who has suffered a work-related injury **provided** that the following conditions are met:

1. The worker recovers from the injury within two (2) years of the onset of disability; and
2. The worker keeps the employer informed of his or her interest in reinstatement and his or her current mailing address; and
3. The worker had an expectation of continuing work had the injury not occurred; and
4. The worker is physically capable of performing either his or her prior job, if available, or an alternative suitable position.

Reinstatement must be with all benefits earned up to the date of injury, including both seniority and accrued leave time. Obviously, such benefits need not accrue **during** the period of actual disability.

Please note that the right to reinstatement applies only to the first **available** suitable job. Thus, the employer is not obligated either to create an "extra" position for a returning worker or to layoff a current employee in order to comply with this law.

Should you have questions regarding the above, please contact the Vermont Department of Labor, Workers' Compensation and Safety Division at 802-828-2286 or our website: [www.labor.vermont.gov](http://www.labor.vermont.gov).

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#### FOR FURTHER INFORMATION CONTACT:

Vermont Department of Labor

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Montpelier, Vermont 05601-0488

Email: [LABOR.WCComp@vermont.gov](mailto:LABOR.WCComp@vermont.gov)

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