

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
BUREAU OF HUMAN RESOURCES
March 11, 2005

HUMAN RESOURCES MEMORANDUM 4-05

TO: All Agency/Department Heads and Human Resource
Representatives

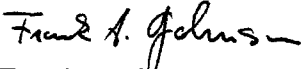
SUBJECT: *VETERANS BENEFITS IMPROVEMENT ACT*

The Veterans Benefits Improvement Act, enacted by Congress in December 2004, requires that employers provide notice to all persons entitled to rights and benefits under Uniformed Services Employment and Reemployment Rights Act (USERRA). In summary, the USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment to enter military service. The USERRA also prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services.¹

The notice requirement provided in the Veterans Benefits Improvement Act impacts any employee of the State of Maine who is a member of the National Guard or the Armed Forces Reserves. Employers may meet the notification requirement provided in the Veterans Benefits Improvement Act by posting the notice, provided in poster form, which can be downloaded from the website highlighted below.

www.dol.gov/vets/programs/userra/poster.pdf

The poster **must be posted** wherever your agency normally posts wage and hour or other mandated notices and informational bulletins such as job postings. *In addition to* posting the poster provided herein, agency human representatives should include a copy of the poster with the packet of materials that is distributed to employees who enter military service. Agencies should also feel free to distribute the poster in other ways that you may deem appropriate.


Frank A. Johnson, Acting Director
Bureau of Human Resources

FAJ/pjs

¹ For the State's current policy regarding military leave, please reference Civil Service Bulletin 11.16B or subsequent updates of the bulletin that may be issued in the future.



YOUR RIGHTS UNDER USERRA

THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ☆ you ensure that your employer receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ☆ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then an employer may not deny you any of the following because of this status:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

HEALTH INSURANCE PROTECTION

- ☆ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

ENFORCEMENT

- ☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/vets>**. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.
- ☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, depending on the employer, for representation.
- ☆ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. This notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.pdf>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying this notice where they customarily place notices for employees.



U.S. Department of Labor
1-866-487-2365



1-800-336-4590

Publication Date—February 2005