

NC-NG-OCT2015update

North Carolina National Guard Update October 2015

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On July 16, 2015, North Carolina Governor Pat McCrory signed into law Session Law 2015-161. This new law goes into effect on October 1, 2015. This new law amends several sections of the North Carolina General Statutes, including section 127A-201 and section 127A-202.1.

Prior to this amendment, section 127A-201 read as follows:

Any member of the North Carolina National Guard who, at the direction of the Governor, enters State duty, is entitled, upon honorable release from State duty, to all the reemployment rights provided for in this Article.

As amended, section 127A-201 reads as follows:

Any member of the North Carolina National Guard or the National Guard of another state who, at the direction of a state's Governor, enters State duty, is entitled, upon honorable release from State duty, to all the reemployment rights provided in this Article.

The new law makes similar amendments to section 127A-202.1 and other sections. The purpose and effect of these amendments is to expand the protection of North Carolina law to include members of the National Guard of other states (typically but not necessarily neighboring states) when they have civilian jobs in North Carolina and when they are called to state active duty by the governors of other states.

For example, Anthony Gaillard works for the Pigs R Us Barbecue in Charlotte, North Carolina. He lives just across the state line in Rock Hill, South Carolina, and he is a Sergeant in the South Carolina Army National Guard. Gaillard is called to state active duty by the Governor of South Carolina for an emergency in that state, and he leaves his job at the North Carolina restaurant for a few days to respond to this state active duty order.

Until October 1, 2015, Gaillard (or someone similarly situated) had no enforceable reemployment rights at the North Carolina restaurant. The federal Uniformed Services Employment and Reemployment Rights Act (USERRA) does not apply to state active duty. The South Carolina law does not apply across the state line in North Carolina. The North Carolina law (until October 1, 2015) did not provide rights to members of the National Guard of other states who have civilian jobs in North Carolina.

This 2015 amendment is exactly what was needed. Several other states have addressed this cross-state issue legislatively in 2015, including California, Illinois, Kansas, Montana, and South Carolina. Thank you to Marcus J. Beauregard, Kevin Bruch, Laura J. Crehan, William E. Hampton, Thomas A. Hinton, James D. Rickel, Dale M. Vande Hey, and the Defense State Liaison Office for bringing this issue to the attention of state legislators across America.