

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE DRS35074-MD-1B\* (09/02)

Short Title: Protect National Guard Reemployment Rights. (Public)

Sponsors: Senators J. Jackson and Soucek (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO EXTEND NATIONAL GUARD REEMPLOYMENT RIGHTS TO MEMBERS  
3 OF THE NATIONAL GUARDS OF OTHER STATES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 127A-201 reads as rewritten:

6 "§ 127A-201. Entitlement.

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

10 SECTION 2. G.S. 127A-202.1 reads as rewritten:

11 "§ 127A-202.1. Discrimination against persons who serve in the ~~North Carolina National~~  
12 ~~Guard and acts of reprisal prohibited.~~

13 (a) It is the policy of this State that all individuals shall be afforded the right to perform,  
14 apply to perform, or have an obligation to perform service in the North Carolina National  
15 Guard or the National Guard of another state without fear of discrimination or retaliatory action  
16 from their employer or prospective employer on the basis of that membership, application for  
17 membership, performance of service, application for service, or obligation.

18 (b) An individual who is a member of the North Carolina National Guard or the  
19 National Guard of another state who performs, has performed, applies to perform, or has an  
20 obligation to perform service in the North Carolina National Guard or the National Guard of  
21 another state shall not be denied initial employment, reemployment, retention in employment,  
22 promotion, or any benefit of employment by an employer on the basis of that membership,  
23 application for membership, performance of service, application for service, or obligation.

24 (c) A person shall be considered to have denied a member of the North Carolina  
25 National Guard or the National Guard of another state initial employment, reemployment,  
26 retention in employment, promotion, or a benefit of employment in violation of this section if  
27 the member's membership, application for membership, performance of service, application for  
28 service, or obligation for service in the North Carolina National Guard or the National Guard of  
29 another state is a motivating factor in that person's action, unless the person can prove by the  
30 greater weight of the evidence that the same unfavorable action would have taken place in the  
31 absence of the member's membership, application for membership, performance of service,  
32 application for service, or obligation.

33 (d) Nothing in this section shall be construed to require a person to pay salary or wages  
34 to a member of the North Carolina National Guard or of the National Guard of another state  
35 during the member's period of active service.



1 (e) The Commissioner of Labor shall enforce the provisions of this section according to  
2 Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued  
3 pursuant to that Article.

4 (f) This section shall also apply when a member of the North Carolina National Guard  
5 or the National Guard of another state is called into active duty at the direction of the President,  
6 the Governor, or by any other competent authority."

7 **SECTION 3.** This act becomes effective October 1, 2015, and applies to denials of  
8 initial employment, reemployment, retention in employment, promotion, or any benefit of  
9 employment by an employer on or after that date.