

## WORKPLACE OR EMPLOYMENT-RELATED INJURIES OR ILLNESSES

When ordered to active duty by the Governor, you are covered under workers' compensation for:

- Injuries received and occupational diseases contracted inside or outside the state; however
- The injury or diagnosis of an occupational disease contracted outside of the State where employee's employment was localized within the State, must be within thirteen calendar weeks of employment.

If you are injured or become ill during or related to your military service, report it as soon as possible to the appropriate military medical authorities and your chain of command.

If there is any question as to whether your injury or illness qualifies for coverage, you should consult with qualified independent legal counsel.

Under State Emergency Duty orders you are not covered by the federal government or the Department of Veterans Affairs for injuries or illnesses sustained during state emergency duty; injuries are not considered in the **line of duty** of federal service.

*All information contained in this pamphlet is based on Missouri Revised Statutes, sections 40.490 (reemployment rights), 41.900 (workers' compensation), 44.010 (definitions), 105.270.1 (leave of absence for military duties), 287.110.1 (scope of workers' compensation coverage). For further information, contact the Office of the Missouri Attorney General at 573-751-3321.*



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# State Emergency Duty as a Member of the National Guard

## A Summary of Your Rights

Photo courtesy of MO National Guard



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## MISSOURI ATTORNEY GENERAL

# State Emergency Duty and Your Employment Rights as a Member of the National Guard

If you are called to military orders by Missouri's governor, the law provides you with certain protections in your employment. This informational pamphlet summarizes many of those rights.

State Emergency Duty ("SED") is a common duty status for Missouri National Guard Soldiers and Airmen when called to duty for events including floods, tornadoes, ice storms, civil unrest, and other state-specific emergencies.

The Missouri Revised Statutes defines an "Emergency" as any state of emergency declared by proclamation by the Governor, or by resolution of the legislature upon the actual occurrence of a natural or man-made disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized.

SED orders are not federal military orders issued pursuant to Titles 10 or 32 for federal service obligations in the National Guard.

## REEMPLOYMENT, SENIORITY, AND GOVERNMENT WORKERS' RIGHTS TO PAY

In order to preserve your employment rights as a civilian, when called upon by the Governor of the State to perform military duties during a "state of emergency," you must:

- Notify your employer within a reasonable period of time following your notification of activation.
- Provide a copy of your orders within a reasonable period of time after receipt. If you do not have orders prior to activation, you may provide your employer with a memorandum from your chain of command, if possible. In the absence of any written document demonstrating your call to orders, you should verbally or by electronic mail inform your employer, and then later provide your employer with an official written record of your activation.
- Talk to your employer's human resources department. Ask your employer if they need anything further and consult with your military section leaders to obtain any necessary paperwork. Cooperate with your employer and be respectful.

- For further legal questions consult with your military unit's assigned judge advocate.

Service members ordered to active duty by the Governor are entitled to a leave of absence from their civilian duties **without:**

- Loss of time as to seniority;
- Loss of regular leave;
- Impairment of efficiency rating; and
- Loss of any other rights or benefits to which you would otherwise be entitled.

The above rights are triggered when ordered to state service by the governor and the adjutant general, and these rights are ensured without regard to length of time.

A Missouri state, county, or local government employee ordered to active military duty by the Governor is entitled to receive military leave pay after he or she:

- Files an official order with the appointing authority or supervising agency.
  - › The order must be issued by the appropriate military authority.
  - › The order must contain the certification of the officer or employee's commanding officer of performance of duty.
- Without regard to length of time, there can be no loss of pay for officers and employees of the State of Missouri, or of any department or agency thereof, or of any county, municipality, school district, or other political subdivision, and all other public employees of this state.
  - › A "political subdivision" is defined as any county or city, town or village, or any fire district created by law.
  - › **What this means:** Missouri state, city, county, and other non-federal government employees within Missouri are entitled to their civilian pay, in addition to their state military pay, while on state emergency duty orders.

- › Non-government civilian employers are not required to pay you during your leave of absence for military duties.

When ordered to **federal** military service the above rights to pay for government employees are subject to a 120-hour limit per federal fiscal year, however, when activated under federal orders further rights are extended under federal law. Those rights are not covered in this pamphlet. Consult with your military unit's assigned judge advocate for resources regarding your federally guaranteed rights while on military orders issued pursuant to Titles 10 or 32.

An employee cannot be discharged from employment because they are a member of the military.

- They shall not be hindered or prevented from performing their military service.
- They shall not be discriminated against.
- They shall not be dissuaded from enlisting or continuing their service in the military by threat or injury to themselves with respect to their employment.
- Any officer or agent of any agency who violates this law shall be guilty of a misdemeanor.

Upon return from state emergency military duties, you are entitled to:

- Re-employment rights
  - › Service members ordered to active duty by the Governor shall upon being relieved from such duty, be entitled to reemployment rights.
  - › The attorney general shall enforce the reemployment rights of those ordered to active duty by the Governor.
  - › Contact your employer within a reasonable amount of time after being deactivated. The burden is on you to tell your employer you're back and ready to work.