

EMPLOYER LETTER

Date: _____

Re: Uniformed Services Employment and Reemployment Rights Act

Dear Employer:

I am an employee with your company and also a member of the Utah National Guard. I am writing to you in an effort to enforce my rights under the Uniformed Services Employment and Reemployment Rights Act.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) does not require the soldier to obtain permission, but rather merely notify the employer of the impending military service. Federal law requires both civilian and government employers to allow their employees to be released for military service with no impact on reemployment, leave and other benefits. For example, the employer cannot require the employee to take annual leave during military service. The employer does not have to allow time to travel to drill, but must allow time to travel home from drill, plus eight hours of rest time after his arrival home. It is the responsibility of the employer to get a replacement for the employee while away for military service.

On October 13, 1994, President Clinton signed into law the Uniformed Services Employment and Reemployment Rights Act (USERRA) Public Law 103-353. The law went into effect on December 12, 1994 and can be found at 38 USC 4301 to 4333. The intent of the Act is to protect the employment and reemployment rights of veterans, both active and reserve, after service in the military, either voluntary or involuntary, in peacetime as well as wartime.

The statute clearly outlines the intent of the legislature to protect the soldier's rights even at the expense and inconvenience of the employers both government and private. The act even specifically supersedes union contracts and individual employment contracts as they relate to the employee's rights and military service.

The statute generally provides for the reemployment of veterans after as many as five

years absence whether the military service is voluntary or involuntary and does not depend on the timing, frequency, duration or nature of the soldier's service. The act also requires that employers make reasonable efforts to train or retrain returning soldiers on job skills in order that the soldier may qualify for reemployment. It is clear by the language of the statute that it applies to all employers. Utah law concurrently provides the same protections to members of the armed forces of the United States under Title 39-1-36, Utah Code Annotated. Both the federal law and the state law apply to the National Guard; there is no requirement for the soldier to be on active duty.

I suggest that your office or your legal counsel review 38 USC 4301 to 4333 and Title 39-1-36, Utah Code Annotated and continue to afford me my protections under federal law. Thank you for your attention to this matter.

Sincerely,

Employee