

2022 -- S 2113

LC003576

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO MILITARY AFFAIRS AND DEFENSE -- CIVIL AIR PATROL ACT

Introduced By: Senators Archambault, and Seveney

Date Introduced: January 25, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 30 of the General Laws entitled "MILITARY AFFAIRS AND  
2 DEFENSE" is hereby amended by adding thereto the following chapter:

3 CHAPTER 5.1

4 CIVIL AIR PATROL ACT

5 **30-5.1-1. Short title.**

6 This act shall be known and may be cited as the "Civil Air Patrol Act."

7 **30-5.1-2. Legislative findings and intent.**

8 (a) The general assembly hereby makes the following findings:

9 (1) The Civil Air Patrol (CAP) is the congressionally chartered official auxiliary of the  
10 United States Air Force. It performs three (3) congressionally assigned key missions: emergency  
11 services, which includes search and rescue, by air and ground, and disaster relief operations;  
12 aerospace education for youth and the general public; and cadet programs for teenage youth. In  
13 addition, the CAP is tasked with homeland security and other missions.

14 (2) The CAP also performs nonauxiliary missions for various federal and state  
15 governmental and private agencies, such as the Rhode Island Army and Air National Guard, Rhode  
16 Island emergency management agency, Rhode Island department of environmental management,  
17 Rhode Island department of labor and training, local law enforcement, the Federal Emergency  
18 Management Agency and the American Red Cross.

19 (3) The Rhode Island wing of the CAP is organized, equipped, governed, administered and

1 trained in accordance with the rules and regulations of the United States Air Force and the CAP.

2 (4) The Rhode Island wing of the CAP has air and ground assets located throughout the  
3 state, as well as highly trained aircrews, ground search crews and other mission support personnel  
4 who perform, as unpaid professionals, valuable emergency services missions for the citizens of  
5 Rhode Island. Additionally, the Rhode Island wing of the CAP, through its missions of aerospace  
6 education and cadet programs, is instrumental in developing Rhode Island's youth as the leaders of  
7 the future.

8 (b)(1) In light of the invaluable services provided by the Rhode Island wing of the CAP to  
9 the state, it is the intent of the general assembly for the state to provide administrative, financial  
10 and other support to the Rhode Island wing of the CAP in order that it can continue to train and  
11 equip itself and its eleven (11) unpaid personnel to perform these valuable missions for the citizens  
12 of the state.

13 (2) It is also the intent of the general assembly to create protections for employees who are  
14 members of the CAP and who train for, and respond to, emergency services missions.

15 **30-5.1-3. Definitions.**

16 As used in this chapter:

17 (1) "Civil Air Patrol leave" means leave requested by an employee who:

18 (i) Is a volunteer member of the civilian auxiliary of the United States Air Force known as  
19 the Civil Air Patrol; and

20 (ii) Has been authorized by the United States Air Force, the governor or a department,  
21 division, agency or political subdivision of the state to respond to or train for an emergency mission.

22 (2) "Emergency mission" means an Air Force assigned mission under which the Rhode  
23 Island wing of the Civil Air Patrol conducts operations.

24 (3) "Employee" means any individual who performs services for, or under the control of,  
25 a provider of wages or remuneration.

26 (4) "Employee benefits" means all benefits other than wages given by an employer.

27 (5) "Employer" means any person or entity that employs more than fifteen (15) employees.

28 **30-5.1-4. Administration - Expenses of Civil Air Patrol.**

29 (a) Due to the nature of its congressionally assigned key missions and nonassigned  
30 missions, the Rhode Island wing of the CAP shall be administered by the CAP Wing Commander  
31 with applicable state, federal and CAP regulations.

32 (b) The CAP Wing Commander, may expend state funds as follows:

33 (1) For operational missions or other objectives related to national security, homeland  
34 security, emergency response, disaster relief or other similar missions;

1 (2) For educational and training purposes of the CAP, including, but not limited to, the  
2 purchase of CAP aviation, homeland security and emergency services education training aid books,  
3 materials and equipment;

4 (3) To defray maintenance, repair and replacement costs of CAP aircraft, motor vehicles  
5 and other homeland security and emergency services equipment;

6 (4) To purchase and obtain supplies and equipment for the CAP; and

7 (5) To maintain the communications network for the CAP and to integrate it with other  
8 state communications networks.

9 (c) Funds specifically appropriated by the general assembly for the purposes specified in  
10 subsection (b) of this section may be expended by the CAP Wing Commander and shall be  
11 expended for no other purposes.

12 **30-5.1-5. Nondiscrimination by employer against Civil Air Patrol members.**

13 (a) An employer may not discriminate against or discharge from employment an employee  
14 who has been employed for a minimum of ninety (90) days and is a member of the CAP because  
15 of membership in the CAP.

16 (b) An employer may not hinder or prevent an employee who has been employed for a  
17 minimum of ninety (90) days from performing service as part of the Rhode Island wing of the CAP  
18 during an emergency mission or training if the member is entitled to leave pursuant to the  
19 provisions of this chapter.

20 **30-5.1-6. Employer to provide leave.**

21 (a) An employer shall provide up to a maximum of ten (10) days per calendar year of  
22 unpaid CAP leave to an employee training for an emergency mission of the Rhode Island wing of  
23 the CAP.

24 (b) An employer shall provide up to a maximum of thirty (30) days per calendar year of  
25 unpaid Civil Air Patrol leave to an employee responding to an emergency mission of the Rhode  
26 Island wing of the CAP.

27 (c) An employee shall give the employer:

28 (1) At least fourteen (14) days notice of the intended dates of the beginning and end of  
29 leave together with an estimate of the amount of time needed to complete training; and

30 (2) As much notice as possible of the intended dates of the beginning and end of leave  
31 together with an estimate of the amount of time needed to complete an emergency mission.

32 (d) The employee shall report to the employer necessary changes in the time required to  
33 complete the training or mission.

34 (e) The employer may require verification of the eligibility of the employee for the CAP

1 leave requested or taken.

2 (f) If the employee fails to provide the required verification, the employer may deny the  
3 CAP leave.

4 (g) An employee taking leave under this section is not required to exhaust all available  
5 leave or time-off benefits before using CAP leave.

6 (h) This section shall not prevent an employer from providing an employee paid leave.

7 **30-5.1-7. Return to work by employee.**

8 (a) When the employee returns to work, the employer shall restore the employee to the  
9 position held when the leave began or to a position with equivalent seniority status, benefits, pay  
10 and conditions of employment.

11 (b) An employer may decline to restore an employee as required in this section because of  
12 circumstances unrelated to the provisions of this section.

13 (c) An employer and an employee may negotiate for the employer to pay for the benefits  
14 of the employee during the leave, but the employer is not required to continue or maintain employee  
15 benefits for any employee eligible for leave under this chapter where the employee would not be  
16 otherwise eligible for any benefit under the policies of the employer or the content of any employee  
17 benefit plan which regulates eligibility for benefits.

18 **30-5.1-8. Accrued benefits retention - Restriction on use of leave - Collective**  
19 **bargaining agreements.**

20 (a) The use of CAP leave under this chapter may not result in the loss of an employee  
21 benefit accrued before the first date of leave.

22 (b) An employee using leave under any other provision of state or federal law may not  
23 concurrently use leave granted under this chapter.

24 (c) This chapter does not affect the obligation of an employer to comply with a collective  
25 bargaining agreement or an employee benefit plan that provides greater leave rights to employees  
26 than the rights provided under this chapter.

27 (d) The grant of leave under this chapter may not be diminished by a collective bargaining  
28 agreement or an employee benefit plan entered into on or after July 1, 2022.

29 (e) This chapter does not affect or diminish the contract rights or seniority status of an  
30 employee not entitled to CAP leave.

31 **30-5.1-9. Certain actions by employer prohibited.**

32 (a) An employer may not interfere with the use of CAP leave allowed under this chapter.

33 (b) An employer may not discharge, fine, suspend, expel, discipline or in any other manner  
34 discriminate against an employee who is a member of the CAP as a result of the employee's

1 compliance with the provisions of this chapter or as the result of opposition to a practice not in  
2 compliance with this chapter.

3 **30-5.1-10. Enforcement.**

4 (a) An employee may bring a civil action in the appropriate superior court to enforce the  
5 provisions of this chapter.

6 (b) The court may enjoin an act or practice that violates the provisions of this chapter and  
7 may order equitable relief to redress the violation or to enforce this chapter, including the recovery  
8 of lost wages incurred as a result of any violation under this chapter. No other monetary damages  
9 may be awarded or recovered.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO MILITARY AFFAIRS AND DEFENSE -- CIVIL AIR PATROL ACT

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1           This act would authorize state assistance to the Rhode Island wing of the Civil Air Patrol  
2 (CAP) to support continued training and equipment for use by the state during times of natural  
3 disaster or emergency in accordance with needs requested by the Rhode Island Emergency  
4 Management Agency (EMA) in conjunction with the governor.

5           This act would take effect upon passage.

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