



SPONSOR: Rep. Jaques & Sen. Ennis  
Reps. Brady, Briggs King, Hudson, Wilson; Sens. Henry,  
Hocker, Poore, Sokola

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 391

AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO THE DELAWARE NATIONAL GUARD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend Subchapter VI, Chapter 1, Title 20 of the Delaware Code by making deletions as shown by  
2       strike through and insertions as shown by underline as follows:

3           § 181 Service pay and expenses during emergency service.

4           (a) For every day of service while on State duty on account of an emergency or impending emergency, as listed in  
5       § 171 of this title, each enlisted member, officer or warrant officer of the Delaware National Guard shall receive a sum  
6       equal to twice the per diem, pay and allowances that military personnel of like grade and length of service in the United  
7       States military would be entitled to receive for a similar period of service. For state duty outside of emergency or  
8       impending emergency responses, including training or other nonemergency response authorized by the Adjutant General,  
9       members of the Delaware National Guard shall receive a sum equal to the per diem, pay, and allowances that military  
10      personnel of like grade and length of service in the United States military receive for a similar period of service, with the  
11      exception of Radiological Emergency Preparedness (REP) events. For REP events, members of the Delaware National  
12      Guard shall receive a sum equal to allowances and twice the base pay.

13          § 185 Exemption from state merit system.

14          Personnel employed by the State to support the operations and maintenance of the National Guard shall be exempt  
15      from the state merit system and shall be paid in accordance with like positions ~~of the military technician programs of the~~ as  
16      Department of Defense Employees. Such employees shall be governed in a like manner in accordance with the rules and  
17      regulations which pertain to ~~the federal military technician program~~ Department of Defense Employees except for:  
18      retirement benefits, health benefits, severance packages, and unused sick leave; all of which shall be administered in the  
19      same manner as state merit system employees. The Adjutant General or designee will determine if a position is classified in  
20      a like manner as a Title 5 United States Code employee or a Title 32 United States Code employee.

## SYNOPSIS

The Delaware National Guard is a crucial partner in the preparedness, planning and in conducting operations in the event of radiological incidents. This Act's modification to § 181 corrects an unintended flaw from a previous change to Title 20, affecting the manner in which National Guard members are paid for Radiological Emergency Preparedness (REP) events. The previous change in Title 20 impedes the National Guard's efforts to recruit personnel, who have developed a high level of proficiency achieved through consistent monthly training. The change allows the Delaware National Guard to ensure ample participation and encourage returning members to build upon previous training and processes. This request has no impact to the State's general funds as it is paid through Special Funding provided by Public Service Enterprise Group.

This Act's modifications to § 185 updates the requirements for the employment and administration of state employees working for the Delaware National Guard. The Delaware National Guard has administered their state employees similar to the federal military technician program which includes dual status and non-dual status technicians. In the 2017 National Defense Authorization Act, the non-dual status federal technician position was eliminated and technicians were converted into Title 5 employees. The change in the federal law impedes the employment and administration of some state employees. The change allows for the proper employment and administration of all Delaware National Guard state employees.