

Enrolled House Bill 2241

Sponsored by Representative MATTHEWS; Representatives BARKER, BUCKLEY, DOHERTY, READ (Presession filed.)

CHAPTER

AN ACT

Relating to employment protections for members of the uniformed service; amending ORS 408.290 and 659A.082; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 659A.082 is amended to read:
659A.082. (1) As used in this section:

(a) "Service" means the performance of duty on a voluntary or involuntary basis in a uniformed service that may involve active duty, active duty for training, initial active duty for training, inactive duty for training, full-time duty in the National Guard, funeral honors duty or an examination to determine fitness for service in a uniformed service.

[(b) "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard or military reserve forces.]

(b) "Uniformed service" means the Armed Forces of the United States, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty, the commissioned corps of the United States Public Health Service and any other category of persons designated by the President of the United States in time of war or national emergency.

(2) It is an unlawful employment practice for an employer to discriminate against a person because of the person's service in a uniformed service by:

(a) If the employer is a public body, denying a public officer or public employee the status or rights provided by ORS 408.240 to 408.280 and 408.290.

(b) Denying any of the following because a person is a member of, applies to be a member of, performs, has performed, applies to perform or has an obligation to perform service in a uniformed service:

(A) Initial employment;

(B) Reemployment following a leave from employment taken by reason of service in a uniformed service;

(C) Retention in employment;

(D) Promotion; or

(E) Any other term, condition or privilege of employment, including but not limited to compensation.

(c) Discharging, expelling, disciplining, threatening or otherwise retaliating against the person for exercising or attempting to exercise the status or rights provided by this section.

(3) An employer does not commit an unlawful employment practice under subsection (2)(b) of this section if the employer acted based on a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business and the employer's actions could not be avoided by making a reasonable accommodation of the person's service in a uniformed service.

(4) Subsection (2)(b) and (c) of this section shall be construed to the extent possible in a manner that is consistent with similar provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994.

SECTION 2. ORS 408.290 is amended to read:

408.290. (1) Except as provided in subsection (2) of this section, for **initial active duty for training and for** all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, any officer or employee of the state, or of any county, municipality or other subdivision of the state, is entitled, upon application therefor, to a leave of absence from duties for a period not exceeding 15 days in any one training year, without loss of time, pay or regular leave and without impairment of efficiency rating or other rights or benefits to which the officer or employee is entitled.

(2) Unless the officer or employee has been employed by the state or by any county, municipality or other political subdivision of the state for a period of six months next preceding application, no officer or employee is entitled to receive pay for any period during which the officer or employee is on military leave.

(3) As used in this section, "training year" means the federal fiscal year for any particular unit of the National Guard or a reserve component.

SECTION 3. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House March 8, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate April 4, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State