

Senate Engrossed House Bill

military leaves of absence; duration

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 193
HOUSE BILL 2297

AN ACT

AMENDING SECTIONS 26-168 AND 38-610, ARIZONA REVISED STATUTES; RELATING TO
MILITARY DUTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-168, Arizona Revised Statutes, is amended to
3 read:

4 26-168. Absence from employment for military duty; vacation
5 and seniority rights; violation; classification;
6 definition

7 A. An employer ~~shall~~ MAY not refuse to allow members of the
8 national guard of this state or any other state or the United States armed
9 forces reserves to take leaves of absence from employment for the purpose
10 of complying with competent orders of this state, the other state or the
11 United States for active duty or to attend camps, maneuvers, formations or
12 armory drills. The leaves of absence ~~shall~~ MAY not affect vacation rights
13 that employees otherwise have, except that an employer need not consider
14 the period of absence as a period of work in determining eligibility for
15 vacation and the amount of vacation pay to which the employee is entitled.

16 B. A member of the national guard of this state or any other state
17 or the United States armed forces reserves ~~shall~~ MAY not lose seniority or
18 precedence while absent under competent military orders. On return to
19 employment, the employee shall be returned to the employee's previous
20 position or to a higher position commensurate with the employee's ability
21 and experience as seniority or precedence would ordinarily entitle the
22 employee.

23 C. An officer or employee of this state, or any department or
24 political subdivision of this state, who is a member of the national guard
25 of this state or any other state or the United States armed forces
26 reserves is entitled to leave of absence pursuant to section 38-610 from
27 the individual's duties without loss of time or efficiency rating on all
28 days during which the individual is engaged in field training as provided
29 by this chapter. ~~and For a~~ THE period ~~during~~ OF THE leave of absence,
30 ~~not to exceed thirty days in any two consecutive years~~ the individual is
31 entitled to pay AS PRESCRIBED IN SECTION 38-610, SUBSECTION C,
32 PARAGRAPH 3. For the purposes of this ~~section~~ SUBSECTION, an officer or
33 employee ~~shall~~ MAY not be charged military leave for days on which the
34 individual was not otherwise scheduled for work. ~~For the purposes of this~~
35 ~~subsection, "day" means a shift of work.~~

36 D. When ordered to perform active duty or training by the competent
37 orders of any state or the United States, members of the national guard or
38 United States armed forces reserves ~~shall~~ have the protections afforded to
39 persons under federal active duty by the soldiers and sailors civil relief
40 act of 1940 (54 Stat. 1178; 50 United States Code App. sections 501
41 through 548 and 560 through 591) and by the uniformed services employment
42 and reemployment rights act of 1994 (108 Stat. 3149; 38 United States Code
43 sections 4301 through 4333).

1 E. A person that violates subsection A or B of this section is
2 guilty of a class 1 misdemeanor. The county attorney shall prosecute
3 violations of this section in superior court.

4 F. FOR THE PURPOSES OF THIS SECTION, "DAY" MEANS A SHIFT OF WORK.

5 Sec. 2. Section 38-610, Arizona Revised Statutes, is amended to
6 read:

7 38-610. Leaves of absence for certain military and disaster
8 training; definitions

9 A. The officers and employees of this state, any county, city or
10 town or any agency or political subdivision of this state or a county,
11 city or town shall be granted leaves of absence from their duties without
12 loss of time, pay or efficiency rating:

13 1. On all days during which they are employed on training duty or
14 to attend camps, maneuvers, formations or drills under orders with any
15 branch or reserve of the armed forces of the United States for ~~a~~ THE
16 period ~~of not to exceed thirty days in any two consecutive years~~
17 PRESCRIBED IN SUBSECTION C, PARAGRAPH 3 OF THIS SECTION.

18 2. On all days during which they are employed on training duty by
19 the national disaster medical system under the United States department of
20 health and human services.

21 B. The officers and employees of this state, any county, city or
22 town or any agency or political subdivision of this state or a county,
23 city or town shall be granted leaves of absence from their duties on all
24 days during which they are employed on training duty or to attend camps,
25 maneuvers, formations or drills under orders with any auxiliary of the
26 armed forces of the United States. ~~for a period of not to exceed thirty~~
27 ~~days in any two consecutive years.~~ The state, any county, city or town or
28 any agency or political subdivision of this state or a county, city or
29 town may grant the leave of absence without loss of time, pay or
30 efficiency rating AS PRESCRIBED IN SUBSECTION C, PARAGRAPH 3 OF THIS
31 SECTION.

32 C. For the purposes of subsection A, paragraph 1 and subsection B
33 of this section, THE FOLLOWING APPLY:

34 1. An officer or employee ~~shall~~ MAY not be charged military leave
35 for days on which the individual was not otherwise scheduled for work.

36 2. The period of time spent in training under orders ~~shall~~ MAY not
37 be deducted from the vacation period with pay to which ~~any~~ THE officer or
38 employee is otherwise entitled.

39 3. THE MILITARY LEAVE PERIOD IS BASED ON THE AVERAGE TOTAL OF
40 REGULARLY SCHEDULED HOURS IN A WEEKLY WORK PERIOD. AN OFFICER OR EMPLOYEE
41 OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE IS ENTITLED TO UP
42 TO THREE TIMES THE AVERAGE OF REGULARLY SCHEDULED WORK HOURS IN A WEEKLY
43 WORK PERIOD EACH YEAR AND UP TO SIX TIMES THE AVERAGE OF REGULARLY
44 SCHEDULED WORK HOURS IN A WEEKLY WORK PERIOD IN ANY TWO CONSECUTIVE YEARS.

1 D. For the purposes of this section:

2 1. "Day" means a shift of work.

3 2. "Year" means the fiscal year of the United States government.

4 Sec. 3. Intent

5 It is the intent of this state to fully support the members of the
6 national guard and the reserve components of the United States armed
7 forces when the member serves this state and the nation. This state and
8 the political subdivisions of this state intend to continue to afford
9 every member up to three workweeks of military leave per year and up to
10 six workweeks of military leave in any two consecutive years. Although a
11 five-day, eight-hour workweek has been interpreted as the model to
12 establish military leave at the state and federal levels in the past and
13 has been expressed in days to ensure consistent application of this policy
14 across varying types of civilian work schedules, occupations and payroll
15 systems, this act is intended to express the calculation of those three
16 workweeks of military leave in hours based on the member's average
17 scheduled civilian workweek. This calculation does not result in a loss of
18 military leave time or salary as currently administered by this state and
19 the political subdivisions of this state, and applying the hours across a
20 civilian workweek enables military leave to be used in any combination of
21 an employee's civilian work schedule across the entitled protection of
22 three workweeks per year or six workweeks over two years to meet the
23 member's military service obligations.

APPROVED BY THE GOVERNOR APRIL 9, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2021.