

CHAPTER 201.

[S. B. 101.]

PROTECTION OF PERSONS IN MILITARY AND
NAVAL SERVICE.

AN Act providing for the protection of persons in the military and naval service of the United States; providing for the suspension of certain civil remedies; providing rights under the Unemployment Compensation Act; permitting leaves of absence for certain elective officials; providing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Any resident of this state who, as a volunteer, or otherwise, shall be called into the military or naval services of the United States pursuant to the National Guard and Reserve Officers Mobilization Act, Public 96, 76th Congress, or any amendment thereto, or the Selective Training and Service Act of 1940, Public 783, 76th Congress, or any amendment thereto, or who, as a member of a reserve component of the United States army, navy, marine corps, public health service or coast guard, has been or shall be called to active service, who, in order to perform such service has left or leaves a position, other than a temporary position, in the employ of any employer, and who (1) is honorably discharged or receives a certificate of satisfactory completion of active duty pursuant to section 3 (a) of the National Guard and Reserve Officers Mobilization Act, or section 8 (a) of the Selective Training and Service Act of 1940, or furnishes other satisfactory proof of having satisfactorily completed such term of service; (2) is still qualified to perform the duties of such position; and (3) makes application for re-employment within forty (40) days after he is relieved from such active duty or service—(a) if such person was in the employ of a private employer, such employer shall restore said person to such position or to a position

Resident in service to be restored to former employment.

Qualifications.

Privately employed.

of like seniority status and pay, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so, or (b) if such person was in the employ of this state or any municipality or political subdivision thereof, such person shall be restored to such position or to a position of like seniority status and pay: *Provided, however,* That restoration shall not take place if such service exceeds the period of the tenure of office of the elective or appointive official from whom the employment flows, and provided further that the circumstances surrounding the governmental office in question have not so changed as to make restoration impossible, unreasonable or against the public interest.

Same status and pay.

Public employment.

Elective or appointive officials excepted.

SEC. 2. When any elective officer of this state or any political subdivision thereof, including any judicial officer, shall be ordered into active service as provided in the foregoing section, he shall be deemed to have been granted leave of absence for such period of service. In the case of any judicial officer, such order to active service shall be deemed to create a case of extreme necessity and the Governor shall extend the leave of absence to cover the period of such active service. No leave of absence provided for herein shall operate to extend the term for which the occupant of any elective position shall have been elected. During such leave of absence the position of any elective official may be filled temporarily by an appointment to be made by the officer, board or other agency which would be authorized to fill a vacancy created by the death or resignation of the elective official so ordered to such service.

Service deemed leave of absence for elective or judicial officer.

SEC. 3. Any person who is entitled to be restored to a position in accordance with the provisions of the preceding sections shall be considered as having been on furlough or leave of absence during his period of active military duty or service and shall be so restored without loss of seniority, shall be entitled to

Person in service entitled to all rights and privileges.

participate in insurance, retirement pay or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was ordered into such service, and shall not be discharged from such position without cause within one year after such restoration, but no employer shall be required to make any payment to keep such insurance or retirement rights current during such period of military service.

Rights against employer enforced.

SEC. 4. In case any employer, his successor, or successors, fails or refuses to comply with the provisions of this act, the Attorney General, or, at his request and under his direction, any Prosecuting Attorney, shall bring an action in the Superior Court to obtain an order to specifically require such employer to comply with the provisions hereof, and as an incident thereto, to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful act. Any such person who does not desire the services of the Attorney General or the Prosecuting Attorney may, by private counsel, maintain such action. Wilful failure or refusal by any person to comply with the requirements of this act shall constitute a gross misdemeanor.

Penalty.

Federal act to apply in all courts.

SEC. 5. The Soldiers' and Sailors' Civil Relief Act of 1940, Public Act No. 861, 76th Congress, is hereby specifically declared to apply in proper cases in all the courts of this state.

SEC. 6. Any person who shall enter the naval or military service pursuant to the National Guard and Reserve Officers' Mobilization Act or the Selective Training and Service Act of 1940, or who, as a member of any reserve component of the United States army, navy, marine corps or coast guard, shall be ordered to active service at any time subsequent to June 30, 1940, shall, upon being honorably discharged

at the conclusion of such term of service, or upon being relieved therefrom with a certificate of satisfactory completion as provided in section 8(a) of the Selective Training and Service Act of 1940, or section 3(a) of the National Guard and Reserve Officers' Mobilization Act, or with other satisfactory evidence of satisfactory completion of such term of service and who shall have been a resident of this state at the time of commencing such period of service, shall be credited by the Commissioner of Unemployment Compensation and Placement with benefit rights equivalent to those which would have been available to him had he earned three hundred dollars (\$300) in the "employment" of an "employer" as defined in chapter 162 of the Laws of 1937, as amended, during each complete calendar quarter while he was in the military service.

Credited with earnings by unemployment compensation.

SEC. 7. If any clause, part or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act, but shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered.

Partial invalidity.

SEC. 8. This act is necessary for the immediate preservation of the public peace, safety and welfare and shall take effect immediately.

Effective immediately.

Passed the Senate February 14, 1941.

Passed the House March 7, 1941.

Approved by the Governor March 24, 1941.