

Enrolled
Senate Bill 1563

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Veterans' and Military Affairs for Representative Jean Cowan and Senator Joanne Verger)

CHAPTER

AN ACT

Relating to members of the uniformed services; creating new provisions; amending ORS 90.475, 109.056, 166.260, 323.055, 341.529, 341.531, 351.642, 351.643, 353.200, 396.370 and 497.006; and declaring an emergency.

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

SECTION 1. ORS 90.475 is amended to read:

90.475. (1) A tenant may terminate a rental agreement upon written notice if the tenant provides the landlord with proof of official orders showing that the tenant is:

- (a) Enlisting for active service in the Armed Forces of the United States;
- (b) Serving as a member of a National Guard or other reserve component or an active service component of the Armed Forces of the United States and ordered to active service outside the area for a period that will exceed 90 days;
- (c) Terminating active service in the Armed Forces of the United States; *[or]*
- (d) A member of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States and:
 - (A) Ordered to active service outside the area for a period that will exceed 90 days; or
 - (B) Terminating the duty and moving outside the area within the period that the member is entitled by federal law to the storage or shipment of household goods; **or**

(e) A member of the commissioned corps of the National Oceanic and Atmospheric Administration ordered to active service outside the area for a period that will exceed 90 days.

(2) As used in subsection (1) of this section, "Armed Forces of the United States" means the Air Force, Army, Coast Guard, Marine Corps or Navy of the United States.

- (3) A termination of a rental agreement under this section is effective on the earlier of:
- (a) A date determined under the provisions of any applicable federal law; or
 - (b) The later of:
 - (A) 30 days after delivery of the notice;
 - (B) 30 days before the earliest reporting date on orders for active service;
 - (C) A date specified in the notice; or
 - (D) 90 days before the effective date of the orders if terminating duty described under subsection (1)(d)(B) of this section or terminating any active service described in this section.

(4) Notwithstanding ORS 90.300 (7)(a)(A) and 90.430, a tenant who terminates a lease under subsection (1) of this section is not:

- (a) Subject to a penalty, fee, charge or loss of deposit because of the termination; or
- (b) Liable for any rent beyond the effective date of the termination as determined under subsection (3) of this section.

SECTION 2. ORS 109.056 is amended to read:

109.056. (1) Except as provided in subsection (2) or (3) of this section, a parent or guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six months, any of the powers of the parent or guardian regarding care, custody or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward.

(2) A parent or guardian of a minor child may delegate the powers designated in subsection (1) of this section to a school administrator for a period not exceeding 12 months.

(3)(a) As used in this subsection, "servicemember-parent" means a parent or guardian:

(A) Who is:

(i) A member of the organized militia of this state [*or*];

(ii) A member of the Reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States; [*and*]

(iii) A member of the commissioned corps of the National Oceanic and Atmospheric Administration; or

(iv) A member of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States; and

(B) Who is required to enter and serve in the active military service of the United States under a call or order by the President of the United States or to serve on active state duty as defined in ORS 398.002.

(b) A servicemember-parent of a minor child may delegate the powers designated in subsection (1) of this section for a period not exceeding the term of active duty service plus 30 days.

(c) Except as provided in paragraph (d) of this subsection, if the minor child is living with the child's other parent, a delegation under paragraph (b) of this subsection must be to the parent with whom the minor child is living unless a court finds that the delegation would not be in the best interests of the minor child.

(d) When the servicemember-parent has joint custody of the minor child with the child's other parent or another individual, and the servicemember-parent is married to an individual other than the child's other parent, the servicemember-parent may delegate the powers designated in subsection (1) of this section to the spouse of the servicemember-parent for a period not exceeding the term of active duty service plus 30 days, unless a court finds that the delegation would not be in the best interests of the minor child.

SECTION 3. ORS 166.260 is amended to read:

166.260. (1) ORS 166.250 does not apply to or affect:

(a) Sheriffs, constables, marshals, parole and probation officers, police officers, whether active or honorably retired, or other duly appointed peace officers.

(b) Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.

(c) The possession or transportation by any merchant of unloaded firearms as merchandise.

(d) Active or reserve members of:

(A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty[.];

(B) The commissioned corps of the National Oceanic and Atmospheric Administration;
or

(C) The Public Health Service of the United States Department of Health and Human Services, when detailed by proper authority for duty with the Army or Navy of the United States.

(e) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

(f) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

(g) A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.

(h) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

(2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has been granted relief from the disability under ORS 166.274.

(3) Except for persons who are otherwise prohibited from possessing a firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

(a) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

(4) The exceptions listed in subsection (1)(b) to (h) of this section constitute affirmative defenses to a charge of violating ORS 166.250.

SECTION 4. ORS 323.055 is amended to read:

323.055. The taxes imposed by ORS 323.005 to 323.482 do not apply to:

(1) The sale of cigarettes to United States Army, Air Force, Navy, Marine Corps, [or] Coast Guard, **National Oceanic and Atmospheric Administration or Public Health Service of the United States Department of Health and Human Services** exchanges and commissaries and Navy or Coast Guard ships' stores, the United States Department of Veterans Affairs, ships' stores maintained under federal bond, or to any person that by virtue of the Constitution or statutes of the United States cannot be made the subject of taxation by this state.

(2) The sale or gift of federally tax-free cigarettes when the cigarettes are delivered directly from the manufacturer under Internal Revenue bond to a veterans' home or a hospital or domiciliary facility of the United States Department of Veterans Affairs for gratuitous issue to veterans receiving hospitalization or domiciliary care. The tax may not be imposed with respect to the use or consumption of these cigarettes by the institution or by the veteran patients or domiciliaries.

SECTION 5. ORS 341.529 is amended to read:

341.529. (1) As used in this section:

(a) "Active member of the Armed Forces of the United States" includes officers and enlisted personnel of the Armed Forces of the United States who:

(A) Reside in this state while assigned to duty at any base, station, shore establishment or other facility in this state;

(B) Reside in this state while serving as members of the crew of a ship that has an Oregon port or shore establishment as its home port or permanent station; or

(C) Reside in another state or a foreign country and establish Oregon residency by filing Oregon state income taxes no later than 12 months before leaving active duty.

(b) "Armed Forces of the United States" includes:

(A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(B) Reserve components of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States; and

(C) The National Guard of the United States and the Oregon National Guard.

(c) "Dependent children" includes any children of an active member of the Armed Forces of the United States who:

(A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or

(B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution of higher learning and dependent on the member for over one-half of their support.

(2) Community colleges in Oregon shall admit active members of the Armed Forces of the United States, **active members of the commissioned corps of the National Oceanic and Atmospheric Administration and members of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States**, and their spouses and dependent children, in the same manner as Oregon residents who are residents of the community college district and shall assess the same fees and tuition rates.

SECTION 6. ORS 341.531 is amended to read:

341.531. (1) A student at a community college who is a member of the military, **a member of the commissioned corps of the National Oceanic and Atmospheric Administration or a member of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States** and who is ordered to federal or state active duty for more than 30 consecutive days has the following rights:

(a) With regard to a course in which the student is enrolled and for which the student has paid tuition and fees, the right to:

(A) Withdraw from the course, subject to the provisions of subsection (2) of this section;

(B) Receive a grade of incomplete and, upon release from active duty, complete the course in accordance with the community college's practice for completion of incomplete courses; or

(C) Continue and complete the course for full credit, subject to the provisions of subsection (3) of this section;

(b) The right to a credit described in ORS 341.532 for all amounts paid for room, board, tuition and fees;

(c) If the student elects to withdraw from the community college, the right to be readmitted and reenrolled at the community college within one year after release from active duty without a requirement of redetermination of admission eligibility; and

(d) The right to continuation of scholarships and grants awarded to the student that were funded by the community college or the Oregon Student Access Commission before the student was ordered to active duty.

(2) If the student elects to withdraw from a course under subsection (1)(a)(A) of this section, the community college may not:

(a) Give the student academic credit for the course from which the student withdraws;

(b) Give the student a failing grade or a grade of incomplete or make any other negative annotation on the student's record; or

(c) Alter the student's grade point average due to the student's withdrawal from the course.

(3) A student who elects to continue and complete a course for full credit under subsection (1)(a)(C) of this section is subject to the following conditions:

(a) Course sessions the student misses due to active duty shall be counted as excused absences and may not adversely impact the student's grade for the course or rank in the student's class.

(b) The student may not be automatically excused from completing course assignments due during the period the student serves on active duty.

(c) A letter grade or a grade of pass may be awarded only if, in the opinion of the teacher of the course, the student completes sufficient work and demonstrates sufficient progress toward meeting course requirements to justify the grade.

(4) Boards of education of community college districts shall adopt rules for the administration of this section.

(5) As used in this section, "member of the military" means a person who is a member of:

(a) The Oregon National Guard or the National Guard of any other state or territory; or

(b) The reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States.

SECTION 7. ORS 351.642 is amended to read:

351.642. (1) As used in this section:

(a) "Active member of the Armed Forces of the United States" includes officers and enlisted personnel of the Armed Forces of the United States who:

(A) Reside in this state while assigned to duty at any base, station, shore establishment or other facility in this state;

(B) Reside in this state while serving as members of the crew of a ship that has an Oregon port or shore establishment as its home port or permanent station; or

(C) Reside in another state or a foreign country and establish Oregon residency by filing Oregon state income taxes no later than 12 months before leaving active duty.

(b) "Armed Forces of the United States" includes:

(A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(B) Reserve components of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States; and

(C) The National Guard of the United States and the Oregon National Guard.

(c) "Dependent children" includes any children of an active member of the Armed Forces of the United States, **of an active member of the commissioned corps of the National Oceanic and Atmospheric Administration or of a member of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States**, who:

(A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or

(B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution of higher learning and dependent on the member for over one-half of their support.

(2) Active members of the Armed Forces of the United States, **active members of the commissioned corps of the National Oceanic and Atmospheric Administration and members of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States**, and their spouses and dependent children [*shall be*], **are** considered residents of this state for the purpose of admission and for the purpose of determining fees and tuition to be paid by such individuals while attending any public university that is under the control of the State Board of Higher Education.

(3) The State Board of Higher Education may contract with the Armed Forces of the United States to furnish educational service in the public universities to active members of the Armed Forces of the United States.

(4) The State Board of Higher Education shall determine the number of such students that should be accepted and shall make final decisions on admission of individual applicants.

(5) Students attending the public universities under contracts with the Armed Forces of the United States under this section shall pay fees and tuition customarily charged Oregon students.

(6) Payments made by the Armed Forces of the United States under such contracts shall be deposited in a designated account in the Oregon University System Fund established by ORS 351.506 in the same manner that fees and tuition payments for resident students are deposited and credited.

SECTION 8. ORS 351.643 is amended to read:

351.643. (1) A student at a public university listed in ORS 352.002 who is a member of the military, **a member of the commissioned corps of the National Oceanic and Atmospheric Administration or a member of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States** and who is ordered to federal or state active duty for more than 30 consecutive days has the following rights:

(a) With regard to a course in which the student is enrolled and for which the student has paid tuition and fees, the right to:

(A) Withdraw from the course, subject to the provisions of subsection (2) of this section;

(B) Receive a grade of incomplete and, upon release from active duty, complete the course in accordance with the practice of the public university for completion of incomplete courses; or

(C) Continue and complete the course for full credit, subject to the provisions of subsection (3) of this section;

(b) The right to a credit described in ORS 351.644 for all amounts paid for room, board, tuition and fees;

(c) If the student elects to withdraw from the public university, the right to be readmitted and reenrolled at the public university within one year after release from active duty without a requirement of redetermination of admission eligibility; and

(d) The right to continuation of scholarships and grants awarded to the student that were funded by the public university or the Oregon Student Access Commission before the student was ordered to active duty.

(2) If the student elects to withdraw from a course under subsection (1)(a)(A) of this section, the public university may not:

(a) Give the student academic credit for the course from which the student withdraws;

(b) Give the student a failing grade or a grade of incomplete or make any other negative annotation on the student's record; or

(c) Alter the student's grade point average due to the student's withdrawal from the course.

(3) A student who elects to continue and complete a course for full credit under subsection (1)(a)(C) of this section is subject to the following conditions:

(a) Course sessions the student misses due to active duty shall be counted as excused absences and may not adversely impact the student's grade for the course or rank in the student's class.

(b) The student may not be automatically excused from completing course assignments due during the period the student serves on active duty.

(c) A letter grade or a grade of pass may be awarded only if, in the opinion of the teacher of the course, the student completes sufficient work and demonstrates sufficient progress toward meeting course requirements to justify the grade.

(4) The State Board of Higher Education shall adopt rules for the administration of this section.

(5) As used in this section, "member of the military" means a person who is a member of:

(a) The Oregon National Guard or the National Guard of any other state or territory; or

(b) The reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States.

SECTION 9. ORS 353.200 is amended to read:

353.200. (1) A student at the Oregon Health and Science University who is a member of the military, **a member of the commissioned corps of the National Oceanic and Atmospheric Administration or a member of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States** and who is ordered to federal or state active duty for more than 30 consecutive days has the following rights:

(a) With regard to a course in which the student is enrolled and for which the student has paid tuition and fees, the right to:

(A) Withdraw from the course, subject to the provisions of subsection (2) of this section;

(B) Receive a grade of incomplete and, upon release from active duty, complete the course in accordance with the practice of the university for completion of incomplete courses; or

(C) Continue and complete the course for full credit, subject to the provisions of subsection (3) of this section;

(b) The right to a credit described in ORS 353.202 for all amounts paid for room, board, tuition and fees;

(c) If the student elects to withdraw from the university, the right to be readmitted and reenrolled at the university within one year after release from active duty without a requirement of redetermination of admission eligibility; and

(d) The right to continuation of scholarships and grants awarded to the student that were funded by the university or the Oregon Student Access Commission before the student was ordered to active duty.

(2) If the student elects to withdraw from a course under subsection (1)(a)(A) of this section, the university may not:

(a) Give the student academic credit for the course from which the student withdraws;
(b) Give the student a failing grade or a grade of incomplete or make any other negative annotation on the student's record; or

(c) Alter the student's grade point average due to the student's withdrawal from the course.

(3) A student who elects to continue and complete a course for full credit under subsection (1)(a)(C) of this section is subject to the following conditions:

(a) Course sessions the student misses due to active duty shall be counted as excused absences and may not adversely impact the student's grade for the course or rank in the student's class.

(b) The student may not be automatically excused from completing course assignments due during the period the student serves on active duty.

(c) A letter grade or a grade of pass may be awarded only if, in the opinion of the teacher of the course, the student completes sufficient work and demonstrates sufficient progress toward meeting course requirements to justify the grade.

(4) The Oregon Health and Science University Board of Directors shall adopt rules for the administration of this section.

(5) As used in this section, "member of the military" means a person who is a member of:

(a) The Oregon National Guard or the National Guard of any other state or territory; or
(b) The reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States.

SECTION 10. ORS 497.006 is amended to read:

497.006. (1) As used in this section:

[(a) "Active member of the Armed Forces of the United States" means officers and enlisted personnel of the Armed Forces of the United States who:]

[(A) Reside in this state while assigned to duty at any base, station, shore establishment or other facility in this state;]

[(B) Reside in this state while serving as members of the crew of a ship that has an Oregon port or shore establishment as its home port or permanent station; or]

[(C) Reside in another state or a foreign country and establish Oregon residency by filing Oregon state income taxes no later than 12 months before leaving active duty.]

[(b) "Armed Forces of the United States" means:]

[(A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;]

[(B) The reserves of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States; and]

[(C) The Oregon National Guard and the National Guard of any other state or territory.]

[(c)] (a) "Dependent children" includes any children of an active member of the Armed Forces of the United States who:

(A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or

(B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution of higher learning and dependent on the resident member of the uniformed services for over one-half of their support.

(b) "Resident member of the uniformed services" means a member of the uniformed services who:

(A) Resides in this state while assigned to duty at any base, station, shore establishment or other facility in this state;

(B) Resides in this state while serving as a member of the crew of a ship that has an Oregon port or shore establishment as its home port or permanent station; or

(C) Resides in another state or a foreign country and establishes Oregon residency by filing Oregon state income taxes no later than 12 months before leaving active duty.

(c) "Uniformed services" means:

(A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(B) The reserves of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(C) The Oregon National Guard and the National Guard of any other state or territory;

(D) The commissioned corps of the National Oceanic and Atmospheric Administration; and

(E) The Public Health Service of the United States Department of Health and Human Services while detailed by proper authority for duty with the Army or Navy of the United States.

(2) The following persons [*shall be considered*] **are** resident persons for the purpose of purchasing licenses, tags and permits issued by the State Fish and Wildlife Commission:

[(a) Active members of the Armed Forces of the United States who furnish to the commission evidence satisfactory to the commission that the person is permanently assigned to active duty in this state and the spouses and dependent children of such members.]

[(b)] (a) [Any active member of the Armed Forces of the United States who furnishes to the commission evidence satisfactory to the commission that the person is a member of the Armed Forces of the United States] A resident member of the uniformed services and the member's spouse and dependent children [of such member].

[(c)] (b) [Aliens who furnish] An alien who furnishes to the commission evidence satisfactory to the commission that the [person] alien is attending a school in this state pursuant to a foreign student exchange program.

SECTION 11. ORS 396.370 is amended to read:

396.370. (1) As used in this section, [*“active member of the Armed Forces of the United States” and] “Armed Forces of the United States” [have the meanings given those terms in ORS 497.006.] means:*

(a) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(b) The reserves of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States; and

(c) The Oregon National Guard and the National Guard of any other state or territory.

(2) A person may apply to the Oregon Military Department for reimbursement for the cost of a resident annual hunting license to hunt wildlife issued to the person under ORS 497.102 and a resident annual angling license issued to the person under ORS 497.121 if the person:

(a) Is an [*active member of the Armed Forces of the United States*] officer or enlisted person in the Armed Forces of the United States who:

(A) Resides in this state while assigned to duty at any base, station, shore establishment or other facility in this state;

(B) Resides in this state while serving as a member of the crew of a ship that has an Oregon port or shore establishment as its home port or permanent station; or

(C) Resides in another state or a foreign country and establishes Oregon residency by filing Oregon state income taxes no later than 12 months before leaving active duty; or

(b) Has retired from the Armed Forces of the United States within 12 months of the date of making the application for a license.

(3) The department shall reimburse a person described in subsection (2) of this section for the cost of a resident annual hunting license to hunt wildlife and a resident annual angling license upon receipt of the person's application.

(4) The department shall adopt regulations implementing subsection (3) of this section.

SECTION 12. (1) **As used in this section:**

(a) “Child” means a child, adopted child or stepchild of a service member.

(b) “Community college” has the meaning given that term in ORS 341.005.

(c) “Qualified student” means a child, a spouse or an unremarried surviving spouse of a service member.

(d) “Service member” means a person who:

(A) As a member of the Armed Forces of the United States, died on active duty; or

(B) Was a member of the Armed Forces of the United States, was 100 percent disabled as the result of a military service connected disability and died as the result of that disability.

(2) Subject to subsections (3) to (7) of this section, a community college shall waive tuition for a qualified student for courses that may lead to a certificate from a community college or to an associate degree.

(3)(a) The maximum waiver granted under this section is the total number of credit hours that equals two years of full-time attendance at a community college.

(b) Notwithstanding paragraph (a) of this subsection, a waiver may not exceed the total number of credit hours the qualified student needs to graduate with a certificate from a community college or an associate degree.

(4) A waiver may be granted under this section only for credit hours for courses that are offered by a community college and are available for enrollment, regardless of whether the qualified student attends the course and pays tuition.

(5) Except as provided in subsection (7) of this section, a qualified student may receive a waiver under this section if the student:

(a) At the time of application for a waiver, is considered a resident of this state for the purpose of determining tuition to be paid at a community college; and

(b) Has been admitted to a community college for a program leading to a certificate from a community college or an associate degree.

(6) A child who applies for a waiver under this section must be 23 years of age or younger at the time the child applies for the waiver.

(7) A qualified student is not eligible to receive a waiver under this section for any school year in which the student received a Marine Gunnery Sergeant John David Fry Scholarship under section 1002 of the Supplemental Appropriations Act of 2009 (P.L. 111-32).

SECTION 13. Section 12 of this 2012 Act and the amendments to ORS 341.529, 341.531, 351.642, 351.643 and 353.200 by sections 5 to 9 of this 2012 Act first apply to the 2012-2013 school year.

SECTION 14. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.

Passed by Senate February 17, 2012

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House February 27, 2012

Repassed by House March 1, 2012

.....
Bruce Hanna, Speaker of House

.....
Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2012

Approved:

.....M,....., 2012

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2012

.....
Kate Brown, Secretary of State