

**SB 5877 - S AMD 387**

By Senator Prentice

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends that this act shall  
4 be interpreted in favor of the service member consistent with the  
5 policies of the uniformed services employment and reemployment rights  
6 act.

7 **Sec. 2.** RCW 41.04.005 and 2002 c 292 s 1 and 2002 c 27 s 1 are  
8 each reenacted and amended to read as follows:

9 (1) As used in RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170, and  
10 28B.15.380 "veteran" includes every person, who at the time he or she  
11 seeks the benefits of RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170,  
12 or 28B.15.380 has received an honorable discharge, is actively serving  
13 honorably, or received a discharge for physical reasons with an  
14 honorable record and who meets at least one of the following criteria:

15 (a) The person has served between World War I and World War II or  
16 during any period of war, as defined in subsection (2) of this section,  
17 as either:

18 (i) A member in any branch of the armed forces of the United  
19 States;

20 (ii) A member of the women's air forces service pilots;

21 (iii) A U.S. documented merchant mariner with service aboard an  
22 oceangoing vessel operated by the war shipping administration, the  
23 office of defense transportation, or their agents, from December 7,  
24 1941, through December 31, 1946; or

25 (iv) A civil service crewmember with service aboard a U.S. army  
26 transport service or U.S. naval transportation service vessel in  
27 oceangoing service from December 7, 1941, through December 31, 1946; or

28 (b) The person has received the armed forces expeditionary medal,

1 or marine corps and navy expeditionary medal, for opposed action on  
2 foreign soil, for service:

3 (i) In any branch of the armed forces of the United States; or

4 (ii) As a member of the women's air forces service pilots.

5 (2) A "period of war" includes:

6 (a) World War I;

7 (b) World War II;

8 (c) The Korean conflict;

9 (d) The Vietnam era(~~([, which])~~), which means:

10 (i) The period beginning on February 28, 1961, and ending on May 7,  
11 1975, in the case of a veteran who served in the Republic of Vietnam  
12 during that period;

13 (ii) The period beginning August 5, 1964, and ending on May 7,  
14 1975;

15 (e) The Persian Gulf War, which was the period beginning August 2,  
16 1990, and ending on the date prescribed by presidential proclamation or  
17 law;

18 (f) The period beginning on the date of any future declaration of  
19 war by the congress and ending on the date prescribed by presidential  
20 proclamation or concurrent resolution of the congress; and

21 (g) The following armed conflicts, if the participant was awarded  
22 the respective campaign badge or medal: The crisis in Lebanon; the  
23 invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation  
24 Restore Hope; Haiti, Operation Uphold Democracy; (~~and~~) Bosnia,  
25 Operation Joint Endeavor; Bosnia, Operation Noble Eagle; Afghanistan,  
26 Operation Enduring Freedom; and Iraq, Operation Iraqi Freedom.

27 **Sec. 3.** RCW 41.40.170 and 2002 c 27 s 2 are each amended to read  
28 as follows:

29 (1) A member who has served or shall serve on active federal  
30 service in the military or naval forces of the United States and who  
31 left or shall leave an employer to enter such service shall be deemed  
32 to be on military leave of absence if he or she has resumed or shall  
33 resume employment as an employee within one year from termination  
34 thereof.

35 (2) If he or she has applied or shall apply for reinstatement of  
36 employment, within one year from termination of the military service,

1 and is refused employment for reasons beyond his or her control, he or  
2 she shall, upon resumption of service within ten years have such  
3 service credited to him or her.

4 (3) In any event, after completing twenty-five years of creditable  
5 service, any member may have service in the armed forces credited to  
6 him or her as a member whether or not he or she left the employ of an  
7 employer to enter the armed service: PROVIDED, That in no instance,  
8 described in this section, shall military service in excess of five  
9 years be credited: AND PROVIDED FURTHER, That in each instance the  
10 member must restore all withdrawn accumulated contributions, which  
11 restoration must be completed within five years of membership service  
12 following the first resumption of employment or complete twenty-five  
13 years of creditable service: AND PROVIDED FURTHER, That this section  
14 will not apply to any individual, not a veteran within the meaning of  
15 RCW 41.04.005.

16 (4)(a) A member, after completing twenty-five years of creditable  
17 service, who would have otherwise become eligible for a retirement  
18 benefit as defined under this chapter while serving honorably in the  
19 armed forces as referenced in RCW 41.04.005, shall, upon application to  
20 the department, be eligible to receive credit for this service without  
21 returning to covered employment.

22 (b) Service credit granted under (a) of this subsection applies  
23 only to veterans as defined in RCW 41.40.005.

24 NEW SECTION. Sec. 4. This act applies retroactively to September  
25 11, 2001.

26 NEW SECTION. Sec. 5. If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

30 NEW SECTION. Sec. 6. This act is necessary for the immediate  
31 preservation of the public peace, health, or safety, or support of the  
32 state government and its existing public institutions, and takes effect  
33 immediately."

1        On page 1, line 2 of the title, after "duty;" strike the remainder  
2 of the title and insert "amending RCW 41.40.170; reenacting and  
3 amending RCW 41.04.005; creating new sections; and declaring an  
4 emergency."

EFFECT:        Reinstates the retroactive clause so that all service members serving since September 11, 2001, are under state law acknowledged to be serving in a recognized conflict. These service members would be considered "veterans" under state law.

Technical changes are made regarding references to the current conflicts by including country names.

Reinstates the intent section to limit liability exposure, but encouraging interpretation of the act to the benefit of the service member consistent with the policies that ensure service members are treated fairly and do not lose accrued benefits such as retirement due to their military service.

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