

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 477

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO THE MILITARY; AMENDING THE HEADING FOR CHAPTER 2, TITLE 46, IDAHO
2 CODE; AMENDING SECTION 46-202, IDAHO CODE, TO REVISE TERMINOLOGY AND TO
3 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 46-205, IDAHO CODE, TO RE-
4 VISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
5 46-207, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL COR-
6 RECTION; AMENDING SECTION 46-215, IDAHO CODE, TO REVISE TERMINOLOGY;
7 AMENDING SECTION 46-224, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE
8 A TECHNICAL CORRECTION; AMENDING SECTION 46-225, IDAHO CODE, TO REVISE
9 TERMINOLOGY; AMENDING SECTION 46-226, IDAHO CODE, TO REVISE TERMINOL-
10 OGY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That the Heading for Chapter 2, Title 46, Idaho Code, be, and
14 the same is hereby amended to read as follows:

15 CHAPTER 2
16 OFFICERS AND ENLISTED ~~MEN~~ PERSONNEL

17 SECTION 2. That Section 46-202, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 46-202. COMMISSIONED OFFICERS -- APPOINTMENT AND COMMISSION -- OATH
20 -- TEMPORARY APPOINTMENTS. All commissioned officers shall be appointed by
21 the governor as ~~commander-in-chief~~, commander in chief and be commissioned
22 according to the grade in the department, corps, or arm of the service in
23 which they are appointed, and shall be assigned to duty by the ~~commander-~~
24 ~~in-chief~~ commander in chief. They shall take and subscribe to the following
25 oath:

26 "I do solemnly swear (or affirm) that I will support and defend the
27 constitution of the United States and the constitution of the state of Idaho
28 against all enemies, foreign and domestic; that I will bear true faith and
29 allegiance to the same; that I will obey orders of the president of the United
30 States and the governor of the state of Idaho, that I make this obligation
31 freely, without any mental reservation or purpose of evasion, and that I will
32 well and faithfully discharge the duties of the office of in the na-
33 tional guard of the state of Idaho upon which I am about to enter, so help me
34 God."

35 The appointment of officers in the national guard shall be temporary un-
36 til such appointees shall have been federally recognized under the provi-
37 sions of the national defense act. Any officer so temporarily appointed as
38 an officer of the national guard of this state is hereby authorized to ex-
39 ercise all powers of his or her office during the time said temporary ap-
40 pointment shall remain in force. Such temporary appointment shall expire
41 upon written notice from the national guard bureau that federal recognition

1 has been denied, and upon receipt of said notice, the governor is authorized
2 and is hereby directed to discharge such temporary officer from the national
3 guard; provided, that the provisions of this section shall not apply to offi-
4 cers of such forces of the organized and unorganized militias ~~which~~ that may
5 be called into active service of the state.

6 SECTION 3. That Section 46-205, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 46-205. VACATION OF COMMISSION -- DISCHARGE. Commissions of officers
9 of the national guard shall be vacated upon resignation duly accepted by the
10 governor; for absence without leave for three (3) months; upon the recom-
11 mendation of an efficiency board approved by the governor as provided by na-
12 tional guard regulations; pursuant to the sentence of a general court-mar-
13 tial after the approval thereof by the governor, imposing sentence of dis-
14 missal; or when an officer has been convicted in a civil court of any crime
15 of the grade of felony; upon withdrawal of federal recognition by the secre-
16 tary of the army or the secretary of the air force; provided, that a formal
17 discharge shall not be given to any officer of the national guard until he
18 or she shall have given a satisfactory clearance for all property belonging
19 to the state or to the United States issued for the use in the military ser-
20 vice by the national guard for which he or she is accountable or responsible,
21 or both; and if discharge from the service of the national guard of the state
22 shall be given before such satisfactory clearance for the responsibility of
23 said property has been given, then such discharge shall be and is hereby de-
24 clared null and void.

25 SECTION 4. That Section 46-207, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 46-207. RETIRING OFFICER RESPONSIBLE FOR STATE PROPERTY -- STATUS
28 PENDING SETTLEMENT OF ACCOUNTS. A commissioned officer responsible or ac-
29 countable for state funds or state property, or property or funds of the
30 United States, intended and issued for use in the military service, issued or
31 entrusted to him or her by the adjutant general or the United States property
32 and fiscal officer, or acquired by transfer, inventory, or purchase, from
33 any state fund or from any annual allowance of state funds or acquired in any
34 other manner, who may tender his or her resignation and whose accounts are
35 not settled, may be relieved from active duty and held as a supernumerary
36 officer pending settlement of his or her accounts; and when so relieved from
37 active duty, the office in which he or she is so commissioned or to which he
38 or she has been assigned shall be considered as vacated: provided, that a
39 commissioned officer so held as a supernumerary officer shall be amenable to
40 court-martial for military offenses to the same extent and in like manner as
41 if upon the active list of officers.

42 SECTION 5. That Section 46-215, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 46-215. ACCOUNTING FOR PROPERTY UPON DISCHARGE. An enlisted person
45 who has not returned or properly accounted for all the public property be-

1 longing to the state or to the United States, issued for use in the military
2 service, and for which he or she is responsible, shall not receive a full and
3 complete discharge from the national guard of this state: provided, that
4 if a discharge for any enlisted ~~man~~ person shall have been given before the
5 return of or proper accounting for said property for which he or she is re-
6 sponsible, then said discharge shall be and is hereby declared null and void.

7 SECTION 6. That Section 46-224, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 46-224. ENTITLED TO RESTORATION OF POSITION AFTER LEAVE OF ABSENCE FOR
10 MILITARY TRAINING. Any person who is a duly qualified member of the national
11 guard or of the reserve components of the armed forces, who is a member of an
12 organized unit and who, in order to receive military training with the armed
13 forces of the United States, not to exceed fifteen (15) days in any one (1)
14 calendar year, leaves a position other than employment of a temporary nature
15 in the employ of any employer, and who shall give evidence defining date of
16 departure and date of return for purposes of military training ninety (90)
17 days prior to the date of departure and who shall further give evidence of the
18 satisfactory completion of such training immediately thereafter, and who is
19 still qualified to perform the duties of such position, shall be entitled to
20 be restored to his or her previous or similar position with the same status,
21 pay and seniority. Such seniority shall continue to accrue during such pe-
22 riod of absence, and such period of absence for military training shall be
23 construed as an absence without leave and within the discretion of the em-
24 ployer. Said leave may be with or without pay.

25 SECTION 7. That Section 46-225, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 46-225. VACATION, SICK LEAVE, BONUS, HEALTH INSURANCE AND ADVANCEMENT
28 UNAFFECTED BY LEAVE OF ABSENCE. Such absence for military training provided
29 in this chapter shall not affect the employee's right to receive normal va-
30 cation, sick leave, bonus, advancement, and other advantages of his or her
31 employment normally to be anticipated in his or her particular position.
32 All officers and employees of the state of Idaho who shall be members of the
33 national guard or who shall be reservists in the armed forces of the United
34 States shall also be entitled to their existing medical benefits for the
35 first thirty (30) days of a deployment ordered or authorized under the provi-
36 sions of the national defense act, and such entitlement shall not decrease
37 any existing accrued leave balances.

38 SECTION 8. That Section 46-226, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 46-226. NONCOMPLIANCE OF EMPLOYER ENTITLING EMPLOYEE TO DAMAGES OR
41 EQUITABLE RELIEF. If any employer fails to comply with any of the provisions
42 of this act, the employee may, ~~at his election,~~ bring an action at law for
43 damages for such noncompliance or apply to the district court for such equi-
44 table relief as may be just and proper under the circumstances.

1 SECTION 9. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2022.