

STATE OF NEW YORK

5233--A

2021-2022 Regular Sessions

IN SENATE

February 26, 2021

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, the executive law, the economic development law, the public officers law, the real property tax law and the military law, in relation to expanding the definition of veteran to include members of the commissioned corps of the national oceanic and atmospheric administration and the United States public health service

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (A) of paragraph 2 of subsection (a-2) of
2 section 606 of the tax law, as amended by chapter 490 of the laws of
3 2019, is amended to read as follows:
4 (A) who served on active duty in the United States army, navy, air
5 force, marine corps, coast guard or the reserves thereof, or who served
6 in active military service of the United States as a member of the army
7 national guard, air national guard, New York guard or New York naval
8 militia, or who served as a member of the commissioned corps of the
9 national oceanic and atmospheric administration or the United States
10 public health service; who (i) was released from active duty by general
11 or honorable discharge after September eleventh, two thousand one, or
12 (ii) has a qualifying condition, as defined in section three hundred
13 fifty of the executive law, and has received a discharge other than bad
14 conduct or dishonorable from such service after September eleventh, two
15 thousand one, or (iii) is a discharged LGBT veteran, as defined in
16 section three hundred fifty of the executive law, and has received a
17 discharge other than bad conduct or dishonorable from such service after
18 September eleventh, two thousand one;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD09436-02-1

§ 2. Subparagraph (A) of paragraph 2 of subsection (g-1) of section 1511 of the tax law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(A) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia, or who served on active duty as a member of the commissioned corps of the national oceanic and atmospheric administration or the United States public health service; who (i) was released from active duty by general or honorable discharge after September eleventh, two thousand one, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one;

§ 3. Subparagraph 1 of paragraph (b) of subdivision 29 of section 210-B of the tax law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(1) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia, or who served on active duty as a member of the commissioned corps of the national oceanic and atmospheric administration or the United States public health service; who (i) was released from active duty by general or honorable discharge after September eleventh, two thousand one, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one;

§ 4. Subdivisions 3 and 9 of section 350 of the executive law, subdivision 9 as added by chapter 490 of the laws of 2019, are amended to read as follows:

3. The term "veteran" means a person, male or female, resident of this state, who has served in the active military or naval service of the United States or the active service of the commissioned corps of the national oceanic and atmospheric administration or the United States public health service during a war in which the United States engaged and who has been released from such service otherwise than by dishonorable discharge, or who has been furloughed to the reserve.

9. The term "discharged LGBT veteran" means a veteran who was discharged less than honorably from military or naval service or the commissioned corps of the national oceanic and atmospheric administration or the United States public health service due to their sexual orientation or gender identity or expression, as those terms are defined in section two hundred ninety-two of this chapter, or statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender identity or expression, or the disclosure of such statements, conduct, or acts, that were prohibited by the military or naval service at the time of discharge. The division shall establish a

1 consistent and uniform process to determine whether a veteran qualifies
2 as a discharged LGBT veteran under this subdivision, including, at a
3 minimum, standards for verifying a veteran's status as a discharged LGBT
4 veteran, and a method of demonstrating eligibility as a discharged LGBT
5 veteran.

6 § 5. The opening paragraph of paragraph a and paragraph c of subdivi-
7 sion 1 of section 364 of the executive law, the opening paragraph of
8 paragraph a as amended by chapter 490 of the laws of 2019 and paragraph
9 c as added by chapter 751 of the laws of 1985, are amended to read as
10 follows:

11 The word "veteran," as used in this article shall be taken to mean and
12 include any person who is a resident of the state of New York, and who
13 (i) has been or may be given an honorable, general or ordinary discharge
14 or any other form of release from such service, except a dishonorable
15 discharge, a bad conduct discharge, an undesirable discharge, a
16 discharge without honor or a discharge for the good of the service, or
17 (ii) has a qualifying condition, as defined in section three hundred
18 fifty of this article, and has received a discharge other than bad
19 conduct or dishonorable from such service, or (iii) is a discharged LGBT
20 veteran, as defined in section three hundred fifty of this article, and
21 has received a discharge other than bad conduct or dishonorable from
22 such service, and who (iv) was a recipient of the armed forces expedi-
23 tionary medal, the navy expeditionary medal or the marine corps expedi-
24 tionary medal for participation in operations in Lebanon from June
25 first, nineteen hundred eighty-three to December first, nineteen hundred
26 eighty-seven, in Grenada from October twenty-third, nineteen hundred
27 eighty-three to November twenty-first, nineteen hundred eighty-three, or
28 in Panama from December twentieth, nineteen hundred eighty-nine to Janu-
29 ary thirty-first, nineteen hundred ninety, or (v) served in the commis-
30 sioned corps of the national oceanic and atmospheric administration or
31 the United States public health service, or (vi) served on active duty
32 for ninety days or more in the armed forces of the United States during
33 any one of the following wars or hostilities:

34 c. The term "active duty" as used in this article shall mean full time
35 duty in the armed forces or the commissioned corps of the national
36 oceanic and atmospheric administration or the United States public
37 health service, other than active duty for training; provided, however,
38 that "active duty" shall also include any period of active duty for
39 training during which the individual concerned was disabled or died from
40 a disease or injury incurred or aggravated during such period.

41 § 6. Subdivision 3 of section 369-b of the executive law, as added by
42 chapter 557 of the laws of 2013, is amended to read as follows:

43 3. "Veteran" shall mean an individual who served on active duty in the
44 United States army, navy, marine corps, air force, coast guard or the
45 reserves component, or who served in active military service of the
46 United States as a member of the army national guard, air national
47 guard, New York guard or New York naval militia, or who served in active
48 service as a member of the commissioned corps of the national oceanic
49 and atmospheric administration or the United States public health
50 service, who was released from such service otherwise then by dishonor-
51 able discharge after September eleventh, two thousand one.

52 § 7. Subdivisions 5 and 7 of section 369-h of the executive law,
53 subdivision 5 as added by chapter 22 of the laws of 2014 and subdivision
54 7 as amended by chapter 490 of the laws of 2019, are amended to read as
55 follows:

5. "Service-disabled veteran" shall mean (a) in the case of the United States army, navy, air force, marines, coast guard, army national guard or air national guard and/or reserves thereof, or the commissioned corps of the national oceanic and atmospheric administration or the United States public health service, a veteran who received a compensation rating of ten percent or greater from the United States department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty, and (b) in the case of the New York guard or the New York naval militia and/or reserves thereof, a veteran who certifies, pursuant to the rules and regulations promulgated by the director, to having incurred an injury equivalent to a compensation rating of ten percent or greater from the United States department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty.

7. "Veteran" shall mean a person who served in the United States army, navy, air force, marines, coast guard, and/or reserves thereof, and/or in the army national guard, air national guard, New York guard and/or the New York naval militia, and/or who served as a member of the commissioned corps of the national oceanic and atmospheric administration and/or the United States public health service and who (i) has received an honorable or general discharge from such service, or (ii) has a qualifying condition, as defined in section three hundred fifty of this chapter, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of this chapter, and has received a discharge other than bad conduct or dishonorable from such service.

§ 8. Subdivision 6 of section 210 of the economic development law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

6. "Veteran" shall mean a person who served in the United States army, navy, air force, marines, coast guard, and/or reserves thereof, and/or in the army national guard, air national guard, New York guard and/or the New York naval militia, and/or who served as a member of the commissioned corps of the national oceanic and atmospheric administration and/or the United States public health service and who (a) has received an honorable or general discharge from such service, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 9. Section 63 of the public officers law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

§ 63. Leave of absence for veterans on Memorial day and Veterans' day. It shall be the duty of the head of every public department and of every court of the state of New York, of every superintendent or foreman on the public works of said state, of the county officers of the several counties of said state, of the town officers of the various towns in this state, of the fire district officers of the various fire districts in this state, and of the head of every department, bureau and office in the government of the various cities and villages in this state, and the officers of any public benefit corporation or any public authority of this state, or of any public benefit corporation or public authority of

1 any county or subdivision of this state, to give leave of absence with
2 pay for twenty-four hours on the day prescribed by law as a public holi-
3 day for the observance of Memorial day and on the eleventh day of Novem-
4 ber, known as Veterans' day, to every person in the service of the
5 state, the county, the town, the fire district, the city or village, the
6 public benefit corporation or public authority of this state, or any
7 public benefit corporation or public authority of any county or subdivi-
8 sion of this state, as the case may be, (i) who served on active duty in
9 the armed forces of the United States during world war I or world war
10 II, or who was employed by the War Shipping Administration or Office of
11 Defense Transportation or their agents as a merchant seaman documented
12 by the United States Coast Guard or Department of Commerce, or as a
13 civil servant employed by the United States Army Transport Service
14 (later redesignated as the United States Army Transportation Corps,
15 Water Division) or the Naval Transportation Service; and who served
16 satisfactorily as a crew member during the period of armed conflict,
17 December seventh, nineteen hundred forty-one, to August fifteenth, nine-
18 teen hundred forty-five, aboard merchant vessels in oceangoing, i.e.,
19 foreign, intercoastal, or coastwise service as such terms are defined
20 under federal law (46 USCA 10301 & 10501) and further to include "near
21 foreign" voyages between the United States and Canada, Mexico, or the
22 West Indies via ocean routes, or public vessels in oceangoing service or
23 foreign waters and who has received a Certificate of Release or
24 Discharge from Active Duty and a discharge certificate, or an Honorable
25 Service Certificate/Report of Casualty, from the Department of Defense,
26 or who served as a United States civilian employed by the American Field
27 Service and served overseas under United States Armies and United States
28 Army Groups in world war II during the period of armed conflict, Decem-
29 ber seventh, nineteen hundred forty-one through May eighth, nineteen
30 hundred forty-five, and who (a) was discharged or released therefrom
31 under honorable conditions, or (b) has a qualifying condition, as
32 defined in section three hundred fifty of the executive law, and has
33 received a discharge other than bad conduct or dishonorable from such
34 service, or (c) is a discharged LGBT veteran, as defined in section
35 three hundred fifty of the executive law, and has received a discharge
36 other than bad conduct or dishonorable from such service or who served
37 as a United States civilian Flight Crew and Aviation Ground Support
38 Employee of Pan American World Airways or one of its subsidiaries or its
39 affiliates and served overseas as a result of Pan American's contract
40 with Air Transport Command or Naval Air Transport Service during the
41 period of armed conflict, December fourteenth, nineteen hundred forty-
42 one through August fourteenth, nineteen hundred forty-five, and who (d)
43 was discharged or released therefrom under honorable conditions, or (e)
44 has a qualifying condition, as defined in section three hundred fifty of
45 the executive law, and has received a discharge other than bad conduct
46 or dishonorable from such service, or (f) is a discharged LGBT veteran,
47 as defined in section three hundred fifty of the executive law, and has
48 received a discharge other than bad conduct or dishonorable from such
49 service or during the period of the Korean conflict at any time between
50 the dates of June twenty-seventh, nineteen hundred fifty and January
51 thirty-first, nineteen hundred fifty-five, or during the period of the
52 Vietnam conflict from the twenty-eighth day of February, nineteen
53 hundred sixty-one to the seventh day of May, nineteen hundred seventy-
54 five, or (ii) who served on active duty in the armed forces of the
55 United States and who was a recipient of the armed forces expeditionary
56 medal, navy expeditionary medal or marine corps expeditionary medal for

1 participation in operations in Lebanon from June first, nineteen hundred
2 eighty-three to December first, nineteen hundred eighty-seven, in Grena-
3 da from October twenty-third, nineteen hundred eighty-three to November
4 twenty-first, nineteen hundred eighty-three, or in Panama from December
5 twentieth, nineteen hundred eighty-nine to January thirty-first, nine-
6 teen hundred ninety, or (iii) who served in the armed forces of a
7 foreign country allied with the United States during world war I or
8 world war II, or during the period of the Korean conflict at any time
9 between June twenty-seventh, nineteen hundred fifty and January thirty-
10 first, nineteen hundred fifty-five, or during the period of the Vietnam
11 conflict from the twenty-eighth day of February, nineteen hundred
12 sixty-one to the seventh day of May, nineteen hundred seventy-five, or
13 during the period of the Persian Gulf conflict from the second day of
14 August, nineteen hundred ninety to the end of such conflict, or who
15 served on active duty in the army or navy or marine corps or air force
16 or coast guard of the United States, and who (a) was honorably
17 discharged or separated from such service under honorable conditions, or
18 (b) has a qualifying condition, as defined in section three hundred
19 fifty of the executive law, and has received a discharge other than bad
20 conduct or dishonorable from such service, or (c) is a discharged LGBT
21 veteran, as defined in section three hundred fifty of the executive law,
22 and has received a discharge other than bad conduct or dishonorable from
23 such service except where such action would endanger the public safety
24 or the safety or health of persons cared for by the state, in which
25 event such persons shall be entitled to leave of absence with pay on
26 another day in lieu thereof, or (iv) who served on active duty in the
27 commissioned corps of the national oceanic and atmospheric adminis-
28 tration or the United States public health service, and who (a) was
29 honorably discharged or separated from such service under honorable
30 conditions, or (b) has a qualifying condition, as defined in section
31 three hundred fifty of the executive law, and has received a discharge
32 other than bad conduct or dishonorable from such service, or (c) is a
33 discharged LGBT veteran, as defined in section three hundred fifty of
34 the executive law, and has received a discharge other than bad conduct
35 or dishonorable from such service except where such action would endan-
36 ger the public safety or the safety or health of persons cared for by
37 the state, in which event such persons shall be entitled to leave of
38 absence with pay on another day in lieu thereof. All such persons who
39 are compensated on a per diem, hourly, semi-monthly or monthly basis,
40 with or without maintenance, shall also be entitled to leave of absence
41 with pay under the provisions of this section and no deduction in vaca-
42 tion allowance or budgetary allowable number of working days shall be
43 made in lieu thereof. A refusal to give such leave of absence to one
44 entitled thereto shall be neglect of duty.

45 § 10. Subdivision 4-a of section 458 of the real property tax law, as
46 amended by chapter 490 of the laws of 2019, is amended to read as
47 follows:

48 4-a. For the purposes of this section, the term "military or naval
49 services" shall be deemed to also include service: (a) by a person who
50 was employed by the War Shipping Administration or Office of Defense
51 Transportation or their agents as a merchant seaman documented by the
52 United States Coast Guard or Department of Commerce, or as a civil serv-
53 ant employed by the United States Army Transport Service (later redesign-
54 nated as the United States Army Transportation Corps, Water Division) or
55 the Naval Transportation Service; and who served satisfactorily as a
56 crew member during the period of armed conflict, December seventh, nine-

1 teen hundred forty-one, to August fifteenth, nineteen hundred forty-
2 five, aboard merchant vessels in oceangoing, i.e., foreign, inter-
3 coastal, or coastwise service as such terms are defined under federal
4 law (46 USCA 10301 & 10501) and further to include "near foreign"
5 voyages between the United States and Canada, Mexico, or the West Indies
6 via ocean routes, or public vessels in oceangoing service or foreign
7 waters and who has received a Certificate of Release or Discharge from
8 Active Duty and a discharge certificate, or an Honorable Service
9 Certificate/Report of Casualty, from the department of defense; (b)
10 service by a United States civilian employed by the American Field
11 Service who served overseas under United States Armies and United States
12 Army Groups in world war II during the period of armed conflict, Decem-
13 ber seventh, nineteen hundred forty-one through May eighth, nineteen
14 hundred forty-five, and who (i) was discharged or released therefrom
15 under honorable conditions, or (ii) has a qualifying condition, as
16 defined in section three hundred fifty of the executive law, and has
17 received a discharge other than bad conduct or dishonorable from such
18 service, or (iii) is a discharged LGBT veteran, as defined in section
19 three hundred fifty of the executive law, and has received a discharge
20 other than bad conduct or dishonorable from such service; ~~(c)~~ (c)
21 service by a United States civilian Flight Crew and Aviation Ground
22 Support Employee of Pan American World Airways or one of its subsid-
23 iaries or its affiliates who served overseas as a result of Pan Ameri-
24 can's contract with Air Transport Command or Naval Air Transport Service
25 during the period of armed conflict, December fourteenth, nineteen
26 hundred forty-one through August fourteenth, nineteen hundred forty-
27 five, and who (i) was discharged or released therefrom under honorable
28 conditions, or (ii) has a qualifying condition, as defined in section
29 three hundred fifty of the executive law, and has received a discharge
30 other than bad conduct or dishonorable from such service, or (iii) is a
31 discharged LGBT veteran, as defined in section three hundred fifty of
32 the executive law, and has received a discharge other than bad conduct
33 or dishonorable from such service; or (d) service by a member of the
34 commissioned corps of the national oceanic and atmospheric adminis-
35 tration or the United States public health service and who (i) was
36 discharged or released therefrom under honorable conditions, or (ii) has
37 a qualifying condition, as defined in section three hundred fifty of the
38 executive law, and has received a discharge other than bad conduct or
39 dishonorable from such service, or (iii) is a discharged LGBT veteran,
40 as defined in section three hundred fifty of the executive law, and has
41 received a discharge other than bad conduct or dishonorable from such
42 service.

43 § 11. Paragraph (e) of subdivision 1 of section 458-a of the real
44 property tax law, as amended by chapter 490 of the laws of 2019, is
45 amended to read as follows:

46 (e) "Veteran" means a person (i) who served in the active military,
47 naval, or air service during a period of war, or who was a recipient of
48 the armed forces expeditionary medal, navy expeditionary medal, marine
49 corps expeditionary medal, or global war on terrorism expeditionary
50 medal, and who (1) was discharged or released therefrom under honorable
51 conditions, or (2) has a qualifying condition, as defined in section
52 three hundred fifty of the executive law, and has received a discharge
53 other than bad conduct or dishonorable from such service, or (3) is a
54 discharged LGBT veteran, as defined in section three hundred fifty of
55 the executive law, and has received a discharge other than bad conduct
56 or dishonorable from such service, (ii) who was employed by the War

1 Shipping Administration or Office of Defense Transportation or their
2 agents as a merchant seaman documented by the United States Coast Guard
3 or Department of Commerce, or as a civil servant employed by the United
4 States Army Transport Service (later redesignated as the United States
5 Army Transportation Corps, Water Division) or the Naval Transportation
6 Service; and who served satisfactorily as a crew member during the peri-
7 od of armed conflict, December seventh, nineteen hundred forty-one, to
8 August fifteenth, nineteen hundred forty-five, aboard merchant vessels
9 in oceangoing, i.e., foreign, intercoastal, or coastwise service as such
10 terms are defined under federal law (46 USCA 10301 & 10501) and further
11 to include "near foreign" voyages between the United States and Canada,
12 Mexico, or the West Indies via ocean routes, or public vessels in ocean-
13 going service or foreign waters and who has received a Certificate of
14 Release or Discharge from Active Duty and a discharge certificate, or an
15 Honorable Service Certificate/Report of Casualty, from the department of
16 defense, (iii) who served as a United States civilian employed by the
17 American Field Service and served overseas under United States Armies
18 and United States Army Groups in world war II during the period of armed
19 conflict, December seventh, nineteen hundred forty-one through May
20 eighth, nineteen hundred forty-five, and who (1) was discharged or
21 released therefrom under honorable conditions, or (2) has a qualifying
22 condition, as defined in section three hundred fifty of the executive
23 law, and has received a discharge other than bad conduct or dishonorable
24 from such service, or (3) is a discharged LGBT veteran, as defined in
25 section three hundred fifty of the executive law, and has received a
26 discharge other than bad conduct or dishonorable from such service, (iv)
27 who served as a United States civilian Flight Crew and Aviation Ground
28 Support Employee of Pan American World Airways or one of its subsid-
29 iaries or its affiliates and served overseas as a result of Pan Ameri-
30 can's contract with Air Transport Command or Naval Air Transport Service
31 during the period of armed conflict, December fourteenth, nineteen
32 hundred forty-one through August fourteenth, nineteen hundred forty-
33 five, and who (1) was discharged or released therefrom under honorable
34 conditions, or (2) has a qualifying condition, as defined in section
35 three hundred fifty of the executive law, and has received a discharge
36 other than bad conduct or dishonorable from such service, or (3) is a
37 discharged LGBT veteran, as defined in section three hundred fifty of
38 the executive law, and has received a discharge other than bad conduct
39 or dishonorable from such service, ~~[or]~~ (v) notwithstanding any other
40 provision of law to the contrary, who are members of the reserve compo-
41 nents of the armed forces of the United States who (1) received an
42 honorable discharge or release therefrom under honorable conditions, or
43 (2) has a qualifying condition, as defined in section three hundred
44 fifty of the executive law, and has received a discharge other than bad
45 conduct or dishonorable from such service, or (3) is a discharged LGBT
46 veteran, as defined in section three hundred fifty of the executive law,
47 and has received a discharge other than bad conduct or dishonorable from
48 such service, but are still members of the reserve components of the
49 armed forces of the United States provided that such members meet all
50 other qualifications under the provisions of this section, or (vi) who
51 served as a member of the commissioned corps of the national oceanic and
52 atmospheric administration or the United States public health service
53 and who (1) was discharged or released therefrom under honorable condi-
54 tions, or (2) has a qualifying condition, as defined in section three
55 hundred fifty of the executive law, and has received a discharge other
56 than bad conduct or dishonorable from such service, or (3) is a

1 discharged LGBT veteran, as defined in section three hundred fifty of
2 the executive law, and has received a discharge other than bad conduct
3 or dishonorable from such service.

4 § 12. Paragraphs (a) and (c) of subdivision 1 of section 458-b of the
5 real property tax law, paragraph (a) as amended by chapter 490 of the
6 laws of 2019 and paragraph (c) as added by chapter 655 of the laws of
7 2007, are amended to read as follows:

8 (a) "Cold War veteran" means a person, male or female, who served on
9 active duty in the United States armed forces or the commissioned corps
10 of the national oceanic and atmospheric administration or the United
11 States public health service, during the time period from September
12 second, nineteen hundred forty-five to December twenty-sixth, nineteen
13 hundred ninety-one, and (i) was discharged or released therefrom under
14 honorable conditions, or (ii) has a qualifying condition, as defined in
15 section three hundred fifty of the executive law, and has received a
16 discharge other than bad conduct or dishonorable from such service, or
17 (iii) is a discharged LGBT veteran, as defined in section three hundred
18 fifty of the executive law, and has received a discharge other than bad
19 conduct or dishonorable from such service.

20 (c) "Active duty" means full-time duty in the United States armed
21 forces or the commissioned corps of the national oceanic and atmospheric
22 administration or the United States public health service, other than
23 active duty for training.

24 § 13. Paragraph (b) of subdivision 1 of section 243 of the military
25 law, as amended by chapter 490 of the laws of 2019, is amended to read
26 as follows:

27 (b) The term "military duty" shall mean military service in the mili-
28 tary, naval, aviation or marine service of the United States subsequent
29 to July first, nineteen hundred forty, or service under the selective
30 training and service act of nineteen hundred forty, or the national
31 guard and reserve officers mobilization act of nineteen hundred forty,
32 or any other act of congress supplementary or amendatory thereto, or any
33 similar act of congress hereafter enacted and irrespective of the fact
34 that such service was entered upon following a voluntary enlistment
35 therefor or was required under one of the foregoing acts of congress, or
36 service with the United States public health service as a commissioned
37 officer, or service with the national oceanic and atmospheric adminis-
38 tration as a commissioned officer or the United States public health
39 service, or service with the American Red Cross while with the armed
40 forces of the United States on foreign service, or service with the
41 special services section of the armed forces of the United States on
42 foreign service, or service in the merchant marine which shall consist
43 of service as an officer or member of the crew on or in connection with
44 a vessel documented under the laws of the United States or a vessel
45 owned by, chartered to, or operated by or for the account or use of the
46 government of the United States, or service by one who was employed by
47 the War Shipping Administration or Office of Defense Transportation or
48 their agents as a merchant seaman documented by the United States Coast
49 Guard or Department of Commerce, or as a civil servant employed by the
50 United States Army Transport Service (later redesignated as the United
51 States Army Transportation Corps, Water Division) or the Naval Transpor-
52 tation Service; and who served satisfactorily as a crew member during
53 the period of armed conflict, December seventh, nineteen hundred forty-
54 one, to August fifteenth, nineteen hundred forty-five, aboard merchant
55 vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service
56 as such terms are defined under federal law (46 USCA 10301 & 10501) and

1 further to include "near foreign" voyages between the United States and
2 Canada, Mexico, or the West Indies via ocean routes, or public vessels
3 in oceangoing service or foreign waters and who has received a Certif-
4 icate of Release or Discharge from Active Duty and a discharge certif-
5 icate, or an Honorable Service Certificate/Report of Casualty, from the
6 Department of Defense, or who served as a United States civilian
7 employed by the American Field Service and served overseas under United
8 States Armies and United States Army Groups in world war II during the
9 period of armed conflict, December seventh, nineteen hundred forty-one
10 through May eighth, nineteen hundred forty-five, and who (i) was
11 discharged or released therefrom under honorable conditions, or (ii) has
12 a qualifying condition, as defined in section three hundred fifty of the
13 executive law, and has received a discharge other than bad conduct or
14 dishonorable from such service, or (iii) is a discharged LGBT veteran,
15 as defined in section three hundred fifty of the executive law, and has
16 received a discharge other than bad conduct or dishonorable from such
17 service, or who served as a United States civilian Flight Crew and
18 Aviation Ground Support Employee of Pan American World Airways or one of
19 its subsidiaries or its affiliates and served overseas as a result of
20 Pan American's contract with Air Transport Command or Naval Air Trans-
21 port Service during the period of armed conflict, December fourteenth,
22 nineteen hundred forty-one through August fourteenth, nineteen hundred
23 forty-five, and who (iv) was discharged or released therefrom under
24 honorable conditions, or (v) has a qualifying condition, as defined in
25 section three hundred fifty of the executive law, and has received a
26 discharge other than bad conduct or dishonorable from such service, or
27 (vi) is a discharged LGBT veteran, as defined in section three hundred
28 fifty of the executive law, and has received a discharge other than bad
29 conduct or dishonorable from such service; or service in police duty on
30 behalf of the United States government in a foreign country, if such
31 person is a police officer, as defined by section 1.20 of the criminal
32 procedure law, and if such police officer obtained the prior consent of
33 his or her public employer to absent himself or herself from his or her
34 position to engage in the performance of such service; or as an enrollee
35 in the United States maritime service on active duty and, to such extent
36 as may be prescribed by or under the laws of the United States, any
37 period awaiting assignment to such service and any period of education
38 or training for such service in any school or institution under the
39 jurisdiction of the United States government, but shall not include
40 temporary and intermittent gratuitous service in any reserve or auxilia-
41 ry force. It shall include time spent in reporting for and returning
42 from military duty and shall be deemed to commence when the public
43 employee leaves his position and to end when he is reinstated to his
44 position, provided such reinstatement is within ninety days after the
45 termination of military duty, as hereinafter defined. Notwithstanding
46 the foregoing provisions of this paragraph, the term "military duty"
47 shall not include any of the foregoing services entered upon voluntarily
48 on or after January first, nineteen hundred forty-seven and before June
49 twenty-fifth, nineteen hundred fifty; and, on or after July first, nine-
50 teen hundred seventy, the term "military duty" shall not include any
51 voluntary service in excess of four years performed after that date, or
52 the total of any voluntary services, additional or otherwise, in excess
53 of four years performed after that date, shall not exceed five years, if
54 the service in excess of four years is at the request and for the
55 convenience of the federal government, except if such voluntary service

1 is performed during a period of war, or national emergency declared by
2 the president.

3 § 14. This act shall take effect immediately, provided, however, that
4 the amendments to subdivisions 5 and 7 of section 369-h of the executive
5 law made by section seven of this act shall not affect the repeal of
6 such section and shall be deemed repealed therewith.