

# STATE OF NEW YORK

5194--C

2023-2024 Regular Sessions

## IN SENATE

February 27, 2023

Introduced by Sens. SKOUFIS, ASHBY -- 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 -- recommitted to the Committee on Veterans, Homeland Security and Military Affairs in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law, the public officers 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 commissioned corps of the public health service

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

1 Section 1. Subdivision 6 of section 210 of the economic development  
2 law, as amended by section 33 of part PP of chapter 56 of the laws of  
3 2022, is amended to read as follows:  
4 6. "Veteran" shall mean a person who served in the United States army,  
5 navy, air force, marines, coast guard, the commissioned corps of the  
6 national oceanic and atmospheric administration, the commissioned corps  
7 of the public health service, and/or reserves thereof, and/or in the  
8 army national guard, air national guard, New York guard and/or the New  
9 York naval militia and who (a) has received an honorable or general  
10 discharge from such service, or (b) has a qualifying condition, as  
11 defined in section one of the veterans' services law, and has received a  
12 discharge other than bad conduct or dishonorable from such service, or  
13 (c) is a discharged LGBT veteran, as defined in section one of the  
14 veterans' services law, and has received a discharge other than bad  
15 conduct or dishonorable from such service.

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

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1 § 2. Section 63 of the public officers law, as amended by section 80  
2 of part PP of chapter 56 of the laws of 2022, is amended to read as  
3 follows:

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

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

47 § 3. Paragraph (b) of subdivision 1 of section 243 of the military  
48 law, as amended by section 71 of part PP of chapter 56 of the laws of  
49 2022, is amended to read as follows:

50 (b) The term "military duty" shall mean military service in the mili-  
51 tary, naval, aviation or marine service of the United States subsequent  
52 to July first, nineteen hundred forty, or service under the selective  
53 training and service act of nineteen hundred forty, or the national  
54 guard and reserve officers mobilization act of nineteen hundred forty,  
55 or any other act of congress supplementary or amendatory thereto, or any  
56 similar act of congress hereafter enacted and irrespective of the fact

1 that such service was entered upon following a voluntary enlistment  
2 therefor or was required under one of the foregoing acts of congress, or  
3 service with the United States public health service as a commissioned  
4 officer, or service with the national oceanic and atmospheric adminis-  
5 tration as a commissioned officer, or service with the American Red  
6 Cross while with the armed forces of the United States on foreign  
7 service, or service with the special services section of the armed forc-  
8 es of the United States on foreign service, or service in the merchant  
9 marine which shall consist of service as an officer or member of the  
10 crew on or in connection with a vessel documented under the laws of the  
11 United States or a vessel owned by, chartered to, or operated by or for  
12 the account or use of the government of the United States, or service by  
13 one who was employed by the War Shipping Administration or Office of  
14 Defense Transportation or their agents as a merchant seaman documented  
15 by the United States Coast Guard or Department of Commerce, or as a  
16 civil servant employed by the United States Army Transport Service  
17 (later redesignated as the United States Army Transportation Corps,  
18 Water Division) or the Naval Transportation Service; and who served  
19 satisfactorily as a crew member during the period of armed conflict,  
20 December seventh, nineteen hundred forty-one, to August fifteenth, nine-  
21 teen hundred forty-five, aboard merchant vessels in oceangoing, i.e.,  
22 foreign, intercoastal, or coastwise service as such terms are defined  
23 under federal law (46 USCA 10301 & 10501) and further to include "near  
24 foreign" voyages between the United States and Canada, Mexico, or the  
25 West Indies via ocean routes, or public vessels in oceangoing service or  
26 foreign waters and who has received a Certificate of Release or  
27 Discharge from Active Duty and a discharge certificate, or an Honorable  
28 Service Certificate/Report of Casualty, from the Department of Defense,  
29 or who served as a United States civilian employed by the American Field  
30 Service and served overseas under United States Armies and United States  
31 Army Groups in world war II during the period of armed conflict, Decem-  
32 ber seventh, nineteen hundred forty-one through May eighth, nineteen  
33 hundred forty-five, and who (i) was discharged or released therefrom  
34 under honorable conditions, or (ii) has a qualifying condition, as  
35 defined in section one of the veterans' services law, and has received a  
36 discharge other than bad conduct or dishonorable from such service, or  
37 (iii) is a discharged LGBT veteran, as defined in section one of the  
38 veterans' services law, and has received a discharge other than bad  
39 conduct or dishonorable from such service, or who served as a United  
40 States civilian Flight Crew and Aviation Ground Support Employee of Pan  
41 American World Airways or one of its subsidiaries or its affiliates and  
42 served overseas as a result of Pan American's contract with Air Trans-  
43 port Command or Naval Air Transport Service during the period of armed  
44 conflict, December fourteenth, nineteen hundred forty-one through August  
45 fourteenth, nineteen hundred forty-five, and who (iv) was discharged or  
46 released therefrom under honorable conditions, or (v) has a qualifying  
47 condition, as defined in section one of the veterans' services law, and  
48 has received a discharge other than bad conduct or dishonorable from  
49 such service, or (vi) is a discharged LGBT veteran, as defined in  
50 section one of the veterans' services law, and has received a discharge  
51 other than bad conduct or dishonorable from such service; or service in  
52 police duty on behalf of the United States government in a foreign coun-  
53 try, if such person is a police officer, as defined by section 1.20 of  
54 the criminal procedure law, and if such police officer obtained the  
55 prior consent of his or her public employer to absent himself or herself  
56 from his or her position to engage in the performance of such service;

1 or as an enrollee in the United States maritime service on active duty  
2 and, to such extent as may be prescribed by or under the laws of the  
3 United States, any period awaiting assignment to such service and any  
4 period of education or training for such service in any school or insti-  
5 tution under the jurisdiction of the United States government, but shall  
6 not include temporary and intermittent gratuitous service in any reserve  
7 or auxiliary force. It shall include time spent in reporting for and  
8 returning from military duty and shall be deemed to commence when the  
9 public employee leaves his or her position and to end when he or she is  
10 reinstated to his or her position, provided such reinstatement is within  
11 ninety days after the termination of military duty, as hereinafter  
12 defined. Notwithstanding the foregoing provisions of this paragraph, the  
13 term "military duty" shall not include any of the foregoing services  
14 entered upon voluntarily on or after January first, nineteen hundred  
15 forty-seven and before June twenty-fifth, nineteen hundred fifty; and,  
16 on or after July first, nineteen hundred seventy, the term "military  
17 duty" shall not include any voluntary service in excess of four years  
18 performed after that date, or the total of any voluntary services, addi-  
19 tional or otherwise, in excess of four years performed after that date,  
20 shall not exceed five years, if the service in excess of four years is  
21 at the request and for the convenience of the federal government, except  
22 if such voluntary service is performed during a period of war, or  
23 national emergency declared by the president.

24 § 4. This act shall take effect on the first of April next succeeding  
25 the date on which it shall have become a law.