
SENATE BILL 5041

State of Washington

65th Legislature

2017 Regular Session

By Senators Baumgartner, Bailey, Conway, and Rolfes; by request of Attorney General

1 AN ACT Relating to consumer protections for military service
2 members on active duty; amending RCW 38.42.010, 38.42.130, and
3 38.42.140; and adding a new section to chapter 38.42 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 38.42.010 and 2014 c 65 s 1 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter,
8 unless the context clearly requires otherwise.

9 (1) "Attorney general" means the attorney general of the state of
10 Washington or any person designated by the attorney general to carry
11 out a responsibility of the attorney general under this chapter.

12 (2) "Business loan" means a loan or extension of credit granted
13 to a business entity that: (a) Is owned and operated by a service
14 member, in which the service member is either (i) a sole proprietor,
15 or (ii) the owner of at least fifty percent of the entity; and (b)
16 experiences a material reduction in revenue due to the service
17 member's military service.

18 (3) "Dependent" means:

19 (a) The service member's spouse;

20 (b) The service member's minor child; or

1 (c) An individual for whom the service member provided more than
2 one-half of the individual's support for one hundred eighty days
3 immediately preceding an application for relief under this chapter.

4 (4) "Financial institution" means an institution as defined in
5 RCW ((30.22.041)) 30A.22.041.

6 (5) "Judgment" does not include temporary orders as issued by a
7 judicial court or administrative tribunal in domestic relations cases
8 under Title 26 RCW, including but not limited to establishment of a
9 temporary child support obligation, creation of a temporary parenting
10 plan, or entry of a temporary protective or restraining order.

11 (6) "Military service" means a service member:

12 (a) Under a call to active service authorized by the president of
13 the United States or the secretary of defense for a period of more
14 than thirty consecutive days; or

15 (b) Under a call to active service authorized by the governor
16 under RCW 38.08.040 for a period of more than thirty consecutive
17 days.

18 (7) "National guard" has the meaning in RCW 38.04.010.

19 (8) "Service member" means ((~~any resident of Washington state who~~
20 ~~is a member of the national guard or member of a military reserve~~
21 ~~component~~)) an active member of the United States armed forces, a
22 member of a military reserve component, or a member of the national
23 guard who is either stationed in or a resident of Washington state.

24 **Sec. 2.** RCW 38.42.130 and 2014 c 65 s 4 are each amended to read
25 as follows:

26 (1) Any person aggrieved by a violation of this chapter may in a
27 civil action:

28 (a) Obtain any appropriate equitable or declaratory relief with
29 respect to the violation; and

30 (b) Recover all other appropriate relief, including monetary
31 damages.

32 (2) The court may award to a person aggrieved by a violation of
33 this chapter who prevails in an action brought under ((~~subsection~~
34 ~~(1)(a) of~~)) this section the costs of the action, including
35 reasonable attorneys' fees.

36 **Sec. 3.** RCW 38.42.140 and 2014 c 65 s 5 are each amended to read
37 as follows:

1 (1) Civil proceedings to enforce this chapter may be brought by
2 the attorney general against any person that:

3 (a) Engages in a pattern or practice of violating this chapter;
4 or

5 (b) Engages in a violation of this chapter that raises an issue
6 of significant public importance.

7 (2) In a civil action commenced under (~~subsection (1)(a) of~~)
8 this section, the court may:

9 (a) Grant any appropriate equitable or declaratory relief,
10 including costs and reasonable attorneys' fees, with respect to the
11 violation of this chapter;

12 (b) Award all other appropriate relief, including monetary
13 damages, to any person aggrieved by the violation; and

14 (c) (~~May~~) To vindicate the public interest, assess a civil
15 penalty:

16 (i) In an amount not exceeding fifty-five thousand dollars for a
17 first violation; and

18 (ii) In an amount not exceeding one hundred ten thousand dollars
19 for any subsequent violation.

20 (3) Upon timely application, a person aggrieved by a violation of
21 this chapter with respect to which the civil action is commenced may
22 intervene in such an action and may obtain appropriate relief as the
23 person could obtain in a civil action under RCW (~~38.42.120~~)
24 38.42.130 with respect to that violation, along with costs and
25 reasonable attorneys' fees.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 38.42
27 RCW to read as follows:

28 (1) A service member may, upon written notice, including
29 electronic mail, terminate or suspend a contract described in
30 subsection (2) of this section at any time after the date the service
31 member receives military service orders:

32 (a) For a permanent change of station; or

33 (b) To deploy with a military unit, or as an individual in
34 support of a military operation, for a period of not less than thirty
35 days.

36 (2) For the purposes of this section, a contract includes the
37 provision of any of the following:

1 (a) Telecommunication services from a telecommunications company,
2 as defined in RCW 80.04.010, except as provided in subsection (7) of
3 this section;

4 (b) Internet services provided from an internet service provider;

5 (c) Health studio services from a health studio, as defined in
6 RCW 19.142.010; and

7 (d) Subscription television services, as defined in RCW
8 9A.56.010, from a television service provider.

9 (3) The service member must provide written proof to the service
10 provider of the official orders showing that the service member has
11 been called into military service:

12 (a) At the time written notice is given; or

13 (b) If precluded by military necessity or circumstances that make
14 the provision of proof at the time of giving written notice
15 unreasonable or impossible, within ninety days after written notice
16 has been given.

17 (4) A termination or suspension of services under this section is
18 effective on the day written notice is given under subsection (2) of
19 this section. The termination or suspension of services does not
20 eliminate or alter any contractual obligation to pay for services
21 rendered before the effective date of the written notice, unless
22 otherwise provided for by law.

23 (5)(a) A service member who terminates or suspends the provision
24 of services under this section may upon giving written notice,
25 including electronic mail, to the provider within ninety days after
26 termination of the service member's military service, reinstate the
27 provision of services:

28 (i) On the same terms and conditions as originally agreed upon
29 with the service provider before the termination or suspension, if
30 the service member was in military service no longer than twelve
31 consecutive months; or

32 (ii) On the same terms and conditions that have been offered by
33 the provider to any new consumer at the lowest discounted or
34 promotional rate within the previous twelve-month period immediately
35 before termination of the service member's military service, if the
36 service member was in military service longer than twelve consecutive
37 months.

38 (b) Upon receipt of the written notice of reinstatement, the
39 service provider must resume the provision of services or, if the
40 services are no longer available, provide substantially similar

1 services within a reasonable period of time not to exceed thirty days
2 from the date of receipt of the written notice of reinstatement.

3 (6) A service member who terminates, suspends, or reinstates the
4 provision of services under this section:

5 (a) May not be charged a penalty, fee, loss of deposit, or any
6 other additional cost because of the termination, suspension, or
7 reinstatement; and

8 (b) Is not liable for payment for any services after the
9 effective date of the termination or suspension, or until the
10 effective date of a reinstatement of services as described in
11 subsection (4) of this section.

12 (7) A service member may terminate a contract for any service
13 provided by a commercial mobile radio services provider in accordance
14 with 50 U.S.C. Sec. 3956.

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