

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2090
(Judiciary Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-01-03, 37-01-22, and 37-01-43 and subsection 7 of section 37-28-02 of the North Dakota Century Code, relating to operation of the North Dakota national guard.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-03 of the North Dakota Century Code is amended and reenacted as follows:

37-01-03. Articles of uniform code of military justice applicable in state - Regulations governing - Punishment for offenses while on duty.

The articles of uniform code of military justice governing the armed forces of the United States as codified in the Manual for Courts-Martial, United States, ~~1984 (1998 edition)~~ as effective through 2010, now in effect, are a part of this title so far as the same are applicable and not modified by any provision of this title. A person who commits an offense while on duty may be tried by a court-martial lawfully appointed even after such duty has terminated, and if found guilty, the accused must be punished according to the articles of uniform code of military justice and the rules and regulations governing the armed forces of the United States and within the limits prescribed in this title and by federal law for the courts-martial in the national guard. In any case in which the person alleged to have committed the offense could be charged either under the code of military justice or the civil law of this state, the officer whose duty it is to approve such charge, in the officer's discretion, may order the person charged or subject to being charged to be turned over to the civil authorities for trial. Whenever reference is made to the articles of uniform code of military justice, to the military service, or to the armed forces of the United States, such reference shall be deemed to include the military service of this state. The intent of this title and of all laws of this state affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, and all laws of this state shall be construed to effect this purpose.

SECTION 2. AMENDMENT. Section 37-01-22 of the North Dakota Century Code is amended and reenacted as follows:

37-01-22. Governor may make rules and regulations governing military forces in state - Limitations - Effect.

The governor may make such rules and regulations as deemed expedient for the government of the military forces of this state, but such rules and regulations must conform to the provisions of this title and, as nearly as practicable, to those governing the ~~United States army~~ armed forces of the United States. When promulgated, such rules and regulations have the same force and effect as the provisions of this title and may not be repealed, altered, amended, or added to except by the commanding officer of the national guard with the approval of the governor.

SECTION 3. AMENDMENT. Section 37-01-43 of the North Dakota Century Code is amended and reenacted as follows:

37-01-43. North Dakota military civil relief act.

A person called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the ~~Soldiers and Sailors Civil Relief Act of 1940 [Pub. L. 102-12; 105 Stat. 34; 50 U.S.C. 501-548 and~~

~~560-593~~ Servicemembers Civil Relief Act, as effective through December 2003 [50 U.S.C. App. sections 501-596].

SECTION 4. AMENDMENT. Subsection 7 of section 37-28-02 of the North Dakota Century Code is amended and reenacted as follows:

7. a. "Resident" means a veteran who was a bona fide resident of the state of North Dakota at the time of mobilization or, in the case of an active component member, at the time of deployment for which the member received an expeditionary medal or campaign badge, as determined under the rules of the adjutant general and the laws of this state. "Resident" includes all mobilized members of the North Dakota national guard.
- b. "Veteran" means a member of the national guard or reserve component who was activated under 10 U.S.C. 12301, as effective through October 2004, and 10 U.S.C. 12302, as effective through 2004, and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, or active component member awarded the expeditionary medal or campaign badge for service after December 5, 1992, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2090.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 88 Nays 0 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State