

transferred to the Minnesota state armory building commission if the new armory to replace the one sold is to be constructed by said commission. If no new armory is built within five years after the old armory has been sold, the appropriation to the adjutant general as herein provided shall lapse. In the event that both the municipality and the county desire to purchase the armory, the municipality shall be given first priority to purchase the armory.

If the municipality or county shall not purchase such property after a reasonable opportunity, the adjutant general may sell and convey the same to any person after a sale thereof at public sale, and in the same manner as certain state property is sold at public sale under the provisions of chapter 16. The adjutant general may lease any such armory remaining unsold to the municipality for public purposes at an annual rental which shall not be less than ten percent of the appraised value of the property.

Approved March 9, 1978.

CHAPTER 478-S.F.No.1787

[Coded in Part]

An act relating to the national guard; amending the state military code; providing penalties; amending Minnesota Statutes 1976, Sections 192.06; 192.11; 192.12; 192.261, Subdivision 5; 192.32; 192.33; 192.34; and Chapter 192, by adding a section; repealing Minnesota Statutes 1976, Sections 190.28; 192.09; and 192.10.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 192.06, is amended to read:

192.06 **OFFICERS AND ENLISTED PERSONS OF STATE STAFF AND DETACHMENT; NUMBER AND GRADES.** The number and grades of officers and enlisted ~~men persons~~ in the state staff and detachment shall be as prescribed by federal law, but in case of war, invasion, insurrection, ~~not~~ civil disturbance or imminent danger of ~~either~~ any of the foregoing, the governor may temporarily increase ~~such~~ the force to meet ~~such~~ the emergency, and retired officers who are physically qualified may be assigned to ~~such~~ emergency duty. All officers appointed to the state staff and detachment shall have had previous military service and shall be selected and appointed by the adjutant general and commissioned by the governor. The enlisted ~~men persons~~ shall be recruited and administered by the detachment commander.

Sec. 2. Minnesota Statutes 1976, Chapter 192, is amended by adding a section to read:

[192.105] OFFICERS; SELECTION, ASSIGNMENT, PROMOTION. Officers for the Minnesota national guard shall be selected, commissioned, or appointed by the governor upon the recommendation of the adjutant general provided the persons have met all qualifications prescribed by federal law. Commissions shall designate the arm,

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branch, or staff corps to which an officer is appointed.

Sec. 3. Minnesota Statutes 1976, Section 192.11, is amended to read:

192.11 OFFICERS TO HAVE POWERS AND DUTIES OF UNITED STATES OFFICERS. In addition to the powers and duties prescribed in the Military Code, all officers of the Minnesota national guard shall have the same powers, including the power to administer oaths, and perform the same duties as officers of similar rank and position in the army armed forces of the United States insofar as may be that are authorized by federal law. ~~They are authorized to administer oaths in all matters connected with the service.~~

Sec. 4. Minnesota Statutes 1976, Section 192.12, is amended to read:

192.12 IN COMPUTING COMMISSIONED SERVICE, THAT IN THE UNITED STATES ARMED FORCES SHALL BE CONSIDERED. Service by any person in the armed forces of the United States ~~volunteers, or in the United States army or navy~~, in the time of war, insurrection, or rebellion, shall be considered as continuous service in the national guard for any and all purposes regarding privileges and exemptions provided by law for members of the national guard by enlistment or commission; ~~provided, that~~. The continuous service for an officer shall include only the time he was commissioned as such an officer.

Sec. 5. Minnesota Statutes 1976, Section 192.261, Subdivision 5, is amended to read:

Subd. 5. ACTIVE DUTY FOR TRAINING, INACTIVE DUTY TRAINING; REEMPLOYMENT RIGHTS. (a) Any ~~such~~ public officer or employee who is a member of the military forces who is ordered to an initial period of active duty for training of not less than three consecutive months shall, upon application for reemployment within 31 days after (1) his release from that active duty for training after satisfactory service, or (2) his discharge from hospitalization incident to that active duty for training, or one year after his scheduled release from that training, whichever is earlier, be entitled to all reemployment rights and benefits provided by ~~Minnesota Statutes 1961, section 192.261, and acts amendatory thereof, except that~~. Any person restored to a position in accordance with the provisions of this clause shall not be discharged from ~~such the~~ position without cause within six months after that restoration.

(b) Any ~~such~~ public officer or employee not covered by section 192.26, or by clause (a) of this subdivision shall, upon request, be granted a leave of absence by his employer for the period required to perform active duty for training or inactive duty training in the military forces. Upon his release from a period of ~~such~~ active duty for training or inactive duty training, or upon his discharge from hospitalization incident to that training, such the employee shall be permitted to return to his position with such the same seniority, status, rate of pay, and vacation as he would have had if he had not been absent for ~~such those~~ purposes. He shall report for work at the beginning of his next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following his release, or within a reasonable time

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thereafter if delayed return is due to factors beyond the employee's control. Failure to report for work at ~~such the~~ next regularly scheduled working period shall make the employee subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work. If that employee is hospitalized incident to active duty for training or inactive duty training, he shall be required to report for work (1) at the beginning of his next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, ~~or~~ (2) within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, or (3) within one year after his release from active duty for training or inactive duty training, whichever is earlier. If an employee covered by this clause is not qualified to perform the duties of his position by reason of disability sustained during active duty for training or inactive duty training, but is qualified to perform the duties of any other position in the employ of the employer or his successor in interest, he shall be restored by that employer or his successor in interest to ~~such other another~~ position, the duties of which he is qualified to perform ~~as and which~~ will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case. For the purpose of this paragraph, the terms "active duty for training" and "inactive duty for training" shall have the meanings subscribed to them by the United States Code Annotated, Appendix 50, Section 459(g) of the Selective Service Act of 1967 Title 38, Part III, Chapter 43, Sections 2021 to 2026.

(c) Any employee not covered by clause (a) shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering or determining by a preinduction or other examination his physical fitness to enter the military forces. Upon his rejection, upon completion of his preinduction or other examination, or upon his discharge from hospitalization incident to that rejection or examination, ~~such the~~ employee shall be permitted to return to his position in accordance with the provisions of clause (b).

Sec. 6. Minnesota Statutes 1976, Section 192.32, is amended to read:

192.32 DISCRIMINATION IN PUBLIC ACCOMMODATIONS OR PUBLIC SERVICES. It shall be unlawful for any ~~common carrier, innkeeper or proprietor or lessee of any place of public amusement or entertainment, or any agent, servant, or representative of any such common carrier, innkeeper, proprietor or lessee as aforesaid, to~~ debar from the full and equal enjoyment of the accommodations, advantages, facilities or privileges of any public conveyance on land or water or any inn or of any place of public amusement or entertainment; any person in the service of the army, navy, marine corps or revenue cutter service of the United States; or of the National Guard or naval service of this state; or otherwise in the military or naval service of the United States; or of this state; wearing the uniform prescribed for him at that time or place by law, regulation of the service; or custom; on account of his wearing such uniform; or of his being in such service person to discriminate against any member of the military forces of the United States, of this state or of any other state because of membership therein or the wearing of a military uniform with respect to access or admission to, full utilization of or benefit from any public accommodation or public service as said terms are defined in chapter 363. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

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Sec. 7. Minnesota Statutes 1976, Section 192.33, is amended to read:

192.33 ACTION FOR DAMAGES. Any person who is debarred from such enjoyment contrary to the provisions of section 192.32 shall be entitled to recover in an action on the case from any corporation, association or person guilty of such violation; his actual damages and \$100 in addition thereto; and evidence that such person debarred was at the time sober, orderly and willing to pay for such enjoyment in accordance with rates fixed therefor for civilians; shall be prima facie evidence that he was debarred on account of his wearing such uniform or of his being in such service. Any person violating any provision of section 192.32 shall be guilty of a misdemeanor injured as a result of a violation of section 192.32 may bring an action to recover his actual damages, costs, and, in addition thereto, exemplary damages .

Sec. 8. Minnesota Statutes 1976, Section 192.34, is amended to read:

192.34 DISCRIMINATION WITH RESPECT TO EMPLOYMENT. No person shall discriminate against any officer or enlisted man of the military forces of the state because of his membership therein. No person shall prohibit or refuse entrance to any officer or enlisted man of the army or navy of the United States, or of the military forces of this state, into any public entertainment or place of amusement because such officer or enlisted man is wearing the uniform of the organization to which he belongs. No employer or officer or agent of any corporation, company, or firm or other person shall discharge any person from employment because of being an officer or enlisted man of the military forces of the state, or hinder or prevent him from performing any military service he may be called upon to perform by proper authority, or dissuade any person from enlistment in the said National Guard by threat or injury to him, in case he shall so enlist, in respect to his employment, trade or business. It shall be unlawful for any employer to discharge any person from employment because of membership in the military or naval forces of the United States, of this state, or any other state, or to hinder or prevent any person from performing any military service that person may be called upon to perform by proper authority, or to dissuade any person from enlistment in the military service by threat or injury, in case that person shall so enlist, in respect to his employment, trade or business. Any person violating any of the provisions of this section shall be deemed guilty of a gross misdemeanor.

Sec. 9. Minnesota Statutes 1976, Sections 190.28, 192.09, and 192.10, are repealed.

Approved March 9, 1978.

CHAPTER 479-S.F.No.1802

An act relating to drivers' licenses; providing that a Class C license is valid for operation of the rear portion of a midmount aerial ladder truck; amending Minnesota Statutes 1976, Section 171.02, Subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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