

House Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 73

# **HOUSE BILL 2539**

AN ACT

AMENDING SECTION 26-168, ARIZONA REVISED STATUTES; RELATING TO MILITARY  
EMPLOYMENT RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-168, Arizona Revised Statutes, is amended to  
3 read:

4 26-168. Absence from employment for military duty; vacation and  
5 seniority rights; violation; classification

6 A. An employer shall not refuse to permit members of the national  
7 guard OR THE UNITED STATES ARMED FORCES RESERVES to take leaves of absence  
8 from employment for the purpose of complying with competent orders of the  
9 state or United States for active duty, or to attend camps, maneuvers,  
10 formations or armory drills. The leaves of absence shall not affect vacation  
11 rights ~~which~~ THAT employees otherwise have, except that an employer need not  
12 consider the period of absence as a period of work ~~performed for him~~ in  
13 determining eligibility for vacation and the amount of vacation pay to which  
14 the employee is entitled.

15 B. A member of the national guard OR THE UNITED STATES ARMED FORCES  
16 RESERVES shall not lose seniority or precedence while absent under competent  
17 military orders. ~~Upon~~ ON return to employment the employee shall be returned  
18 to ~~his~~ THE EMPLOYEE'S previous position, or to a higher position commensurate  
19 with ~~his~~ THE EMPLOYEE'S ability and experience as seniority or precedence  
20 would ordinarily entitle ~~him~~ THE EMPLOYEE.

21 C. An officer or employee of ~~the~~ THIS state, or any department or  
22 political subdivision ~~thereof~~ OF THIS STATE, who is a member of the national  
23 guard OR THE UNITED STATES ARMED FORCES RESERVES shall be entitled to leave  
24 of absence PURSUANT TO SECTION 38-610 from ~~his~~ THE INDIVIDUAL'S duties  
25 without loss of time or efficiency rating on all days during which ~~he~~ THE  
26 INDIVIDUAL is engaged in field training as provided by this chapter, and for  
27 a period during leave of absence not to exceed thirty days in any two  
28 consecutive years ~~he shall be~~ THE INDIVIDUAL IS entitled to ~~his~~ pay. For  
29 purposes of this section, an officer or employee shall not be charged  
30 military leave for days on which the individual was not otherwise scheduled  
31 for work.

32 D. When ordered by the governor to perform training or duty under this  
33 section or section 26-171, subsection C, section 26-172 or SECTION 26-175,  
34 members of the Arizona national guard shall have the protections afforded to  
35 persons on federal active duty by the soldiers and sailors civil relief act  
36 of 1940 (54 Stat. 1178; ~~—~~ 50 United States Code ~~Annotated~~ App. sections 501  
37 through 548 and 560 through 591); ~~—~~ and by the uniformed services employment  
38 and reemployment rights act of 1994 (108 Stat. 3149; ~~—~~ 38 United States Code  
39 ~~Annotated~~ sections 4301 through 4333).

40 E. A person violating any provision of subsection ~~A~~ A or B of this  
41 section is guilty of a class ~~3-1~~ 1 misdemeanor. THE COUNTY ATTORNEY SHALL  
42 PROSECUTE VIOLATIONS OF THIS SECTION IN SUPERIOR COURT.

APPROVED BY THE GOVERNOR APRIL 16, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2010.

Passed the House February 16, 2010

Passed the Senate April 12, 2010

by the following vote: 54 Ayes.

by the following vote: 29 Ayes,

4 Nays, 1 Not Voting  
& vacancy

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Pro Tempore  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 2010

at 8:50 o'clock A. M.

[Signature]  
Secretary to the Governor

Approved this 16<sup>th</sup> day of

April

at 4:33 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 19<sup>th</sup> day of April, 2010

at 11:40 o'clock a M.

[Signature]  
Secretary of State

H.B. 2539