

Licensing Hurdles for Service Members Unable to Keep Professional Certifications in Good Standing Due to Military Obligations

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9.0--Miscellaneous

The Problem:

Approximately 5% of all workers in the 1950s were required to be licensed by the government. The number is now up to 30-35%.² Most of these licenses require annual fees, paperwork, and continuing education. Many active duty military personnel are unable to complete these renewal requirements while deployed, and forced to let their licenses expire. The requirements for obtaining a license are usually far more stringent than those for renewing one before it expires. This creates an additional hurdle for troops returning home, especially for the reservists and guardsmen immediately going back to civilian employment.

The Solution:

States have begun passing legislation granting automatic extensions for service members unable to complete licensing renewal requirements in a timely manner, because of the unique demands of active duty. As of February 2013, eighteen states had enacted laws doing so, and 16 states had pending legislation addressing the problem.³

Kentucky enacted such a law in 2011, granting active duty service members extensions on state regulated occupational licensing renewal requirements when “circumstances associated with military duty” prevent service members from completing said requirements. This includes dues or fees, obtaining education credits, and “any other act typically required for the renewal of the license or certificate.”

Other states have enacted similar laws, but Kentucky’s remains one of the best. The notable features of Kentucky’s law are:

1. Kentucky’s law allows extensions for active duty military personnel who are prevented from completing licensing renewal requirements due to “circumstances associated with military duty.”

Some state laws only allow extensions for service members who are called to active duty for the purpose of serving in an emergency or war. This could be problematic for military personnel who cannot complete license renewal requirements due to training, or other such obligations. A Marine Corps Officer, for example, must complete ten weeks of Officer Candidate School, six months of Basic School, and at least two months of Military Occupational Specialty School, usually one right after the other. This long period of training would not be covered under a law granting extensions to service members called to serve in an emergency or time of war, but would be

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*The views expressed in this article do not represent the Maryland Law School or the Marine Corps.

² *The Fast Track to Civilian Employment: Streamlining Credentialing and Licensing For Service Members, Veterans, and their Spouses, Executive Office of the President* (2013) (Citing Kleiner, Morris M. and Alan B. Krueger, *Analyzing the Extent and Influence of Occupational Licensing on the Labor Market*, Journal of Labor Economics, Vol. 31 No. S1: 1-27 (2013)).

³ *Id.*

covered under the broad language of the Kentucky law. By allowing extensions for all “circumstances associated with military duty,” the law covers any conceivable scenario.

2. Kentucky’s law grants extensions for continuing education requirements, fees, and “*any other act typically required for the renewal of the license or certificate*” (emphasis added).

Some states have provisions granting extensions for fees and continuing education requirements, but fail to add catch-alls, like the one in the Kentucky law, for irregular licensing requirements. Many licenses only require fees and continuing education for renewal, but some require additional requirements. For example, some licenses carry annual pro bono requirements, which a service member would not be able to meet while on deployment. Such a requirement falls outside the normal fees and continuing education hours necessary to keep licenses in good standing with the state. For that reason, it is necessary to have catch-all clauses, like the one in the Kentucky law.

3. The Kentucky law allows the extension to continue for “a period of at least six (6) months after discharge from active duty.”

Having such a provision is essential to any legislation granting extensions for licensing renewing requirements. Returning service members need adequate time, upon returning to civilian life, to fulfill the licensing renewal requirements they were unable to fulfill while on active duty. Without such a provision, this law would be ineffective. Service members’ licenses would lapse as soon as they returned home, placing them in the same position as if their licenses had lapsed while they were on active duty.

The complete text of the Kentucky law is below for reference:

Kentucky Law 12.355, Renewal of professional license or certification held by active duty members of Armed Forces:

- (1) Notwithstanding any other statute to the contrary, any member of the Armed Forces of the United States on active duty who, at the time of activation, was:
 - (a) A member in good standing with any administrative body of the state; and
 - (b) Duly licensed or certified to engage in his or her profession or vocation in the Commonwealth; shall be kept in good standing by the administrative body with which he or she is licensed or certified.
- (2) While a licensee or certificate holder is an active duty member of the Armed Forces of the United States, the license or certificate referenced in subsection (1) of this section shall be renewed without:
 - (a) The payment of dues or fees;
 - (b) Obtaining continuing education credits when:
 1. Circumstances associated with military duty prevent obtaining training and a waiver request has been submitted to the appropriate administrative body; or
 2. The active duty military member performs the licensed or certified occupation as part of his or her military duties as annotated in Defense Department form 214 (DD 214); or
 - (c) Performing any other act typically required for the renewal of the license or certificate.
- (3) The license or certificate issued under this section shall be continued as long as the licensee or certificate holder is a member of the Armed Forces of the United States on active duty and for a period of at least six (6) months after discharge from active duty.

Approved: 8/21/2013. Captain Samuel F. Wright, JAGC, USN (Ret.). Director, Service Members Law Center.