

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 1237 **VERSION:** AMENDED MARCH 30, 2022

AUTHOR: NEWMAN **SPONSOR:** CALIFORNIA OPTOMETRIC ASSOCIATION

RECOMMENDED POSITION: NONE

SUBJECT: LICENSES: MILITARY SERVICE

Summary

This bill would clarify the meaning of the term “called to active duty” with respect to the requirement in law that licensing boards under the Department of Consumer Affairs (DCA) waive renewal fees and continuing education requirements of a licensee or registrant called to active duty as a member of the U.S. Armed forces or California National Guard.

Existing Law:

- 1) Allows a licensee or registrant of any board, commission, or bureau within DCA to reinstate their license without examination or penalty if the license expired while they were on active duty with the California National Guard or the United States Armed Forces, if certain conditions are met. (Business and Professions Code (BPC §114):
- 2) Requires boards under DCA to waive continuing education requirements and renewal fees for a licensee or registrant **called to active duty** as a member of the U.S. Armed Forces or California National Guard if they meet all of the following (BPC §114.3(a)):
 - a) They possessed a current, valid license with the Board at the time they were called to active duty.
 - b) The renewal requirements are only waived while they are on active duty.
 - c) They provide written documentation of the active duty service.
- 3) Prohibits the licensee or registrant to engage in any activities requiring a license while their waiver is in effect, with one exception. If they plan to provide services, the Board must convert the license status to “military active,” and the licensee or registrant may not engage in private practice. (BPC §114.3(b))

- 4) Once discharged from active duty, the licensee or registrant must meet all necessary renewal requirements within 6 months from the discharge date to engage in licensed activities. The licensee or registrant must also notify the board of their discharge within 60 days. (BPC §114.3(c) and (d))
- 5) Defines “active duty” as full-time duty in the active military service of the United States. It includes full-time training duty, annual training duty, and attendance, while in active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. It does not include full-time National Guard duty. (Section 101, Title 10 of the United States Code)

This Bill:

- 1) Clarifies the term “called to active duty.” It specifies that the term “called to active duty” has the same meaning as “active duty” as defined in Section 101, Title 10 of the United States Code (Definition can be found in Item #5 of “Existing Law” above), and also includes individuals on active duty in the California National Guard, whether called due to a proclamation of a state of insurrection (pursuant to [MVC §143](#)) or due to a state extreme emergency or otherwise on active duty (pursuant to [MVC §146](#)).

Comments:

- 1) **Author’s Intent.** According to the author, there have been cases (at other DCA boards) where DCA has determined that military personnel with active orders to serve in a permanent, career position at a base are not “called to active duty” within the meaning of the exemption from renewal fees and other renewal requirements. The author states *“This overly narrow interpretation has resulted in undue burdens for active-duty military personnel compelled to maintain their professional license while also serving in the military in a permanent assignment or career position outside of California.”*

Overall, the author is seeking to expand the exemption for renewal fees and other renewal requirements to include not just those “called to active duty”, but also those in the military on active duty in a permanent, career position at a base located outside of California.

- 2) **Board Process.** When the Board gets a request for to waive the renewal fee and continuing education requirements for a licensee or registrant called to active duty, it does not require the length of duty to be stated as a condition of approval. The Board requests their military orders, which states date they were called to active duty, to confirm the active duty. The licensee or registrant must notify the Board within 60 days of their discharge.

3) Fiscal Impact. The Board is not reporting a fiscal impact for this bill.

Since BPC section 114.3 became effective on January 1, 2013, the Board has had a total of 15 applications for its renewal fee and CE waiver. Currently, the Board has the 7 individuals utilizing this waiver.

4) Previous Legislation.

- AB 1588 (Atkins, Chapter 742, Statutes of 2012) required the Board to waive continuing education requirements and renewal fees for a licensee or registrant while they are called to active duty as a member of the United States Armed Forces or the California National Guard if they meet certain requirements.

5) Support and Opposition.

Support:

- California Optometric Association (Sponsor)
- FirstSight Vision Services, Inc.
- National Vision, Inc.

Opposition: None at this time.

6) History

2022

04/06/22 Set for hearing April 27.

04/05/22 From committee: Do pass and re-refer to Com. on M. & V.A. with recommendation: To consent calendar. (Ayes 10. Noes 0.) (April 4). Re-referred to Com. on M. & V.A.

03/30/22 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.

03/25/22 Set for hearing April 4.

03/02/22 Referred to Coms. on B., P. & E.D. and M. & V.A.

02/18/22 From printer.

02/17/22 Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement.

02/17/22 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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AMENDED IN SENATE MARCH 30, 2022

SENATE BILL

No. 1237

Introduced by Senator Newman

February 17, 2022

An act to amend Section 114.3 of the Business and Professions Code, relating to professions and vocations.

legislative counsel's digest

SB 1237, as amended, Newman. Licenses: military service.

Existing law provides for the regulation of various professions and vocations by boards within the Department of Consumer Affairs and for the licensure or registration of individuals in that regard. Existing law authorizes any licensee or registrant whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate the licensee's or registrant's license without examination or penalty if certain requirements are met.

Existing law requires the boards described above, with certain exceptions, to waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, of any licensee or registrant who is called to active duty as a member of the United States Armed Forces or the California National Guard if certain requirements are met. Existing law, except as specified, prohibits a licensee or registrant from engaging in any activities requiring a license while a waiver is in effect.

~~This bill would require the boards to waive the renewal fee of any licensee or registrant who is called to active duty as a member of the United States Armed Forces or the California National Guard if the licensee or registrant is stationed outside of California.~~ *define the phrase*

“called to active duty” to include active duty in the United States Armed Forces and on duty in the California National Guard, as specified. This bill would also make nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 114.3 of the Business and Professions
 2 Code is amended to read:

3 114.3. (a) Notwithstanding any other law, every board, as
 4 defined in Section 22, within the department shall waive the
 5 renewal fees, continuing education requirements, and other renewal
 6 requirements as determined by the board, if any are applicable,
 7 for a licensee or registrant called to active duty as a member of
 8 the United States Armed Forces or the California National Guard
 9 if all of the following requirements are met:

10 (1) The licensee or registrant possessed a current and valid
 11 license with the board at the time the licensee or registrant was
 12 called to active duty.

13 (2) The renewal requirements are waived only for the period
 14 during which the licensee or registrant is on active duty service.

15 (3) Written documentation that substantiates the licensee or
 16 registrant’s active duty service is provided to the board.

17 (b) *For purposes of this section, the phrase “called to active*
 18 *duty” shall have the same meaning as “active duty” as defined in*
 19 *Section 101 of Title 10 of the United States Code and shall*
 20 *additionally include individuals who are on active duty in the*
 21 *California National Guard, whether due to proclamation of a state*
 22 *of insurrection pursuant to Section 143 of the Military and Veterans*
 23 *Code or due to a proclamation of a state extreme emergency or*
 24 *when the California National Guard is otherwise on active duty*
 25 *pursuant to Section 146 of the Military and Veterans Code.*

26 ~~(b)~~
 27 (c) (1) Except as specified in paragraph (2), the licensee or
 28 registrant shall not engage in any activities requiring a license
 29 during the period that the waivers provided by this section are in
 30 effect.

31 (2) If the licensee or registrant will provide services for which
 32 the licensee or registrant is licensed while on active duty, the board

1 shall convert the license status to military active and no private
2 practice of any type shall be permitted.

3 ~~(e)~~

4 (d) In order to engage in any activities for which the licensee
5 or registrant is licensed once discharged from active duty, the
6 licensee or registrant shall meet all necessary renewal requirements
7 as determined by the board within six months from the licensee's
8 or registrant's date of discharge from active duty service.

9 ~~(e)~~

10 (e) After a licensee or registrant receives notice of the licensee
11 or registrant's discharge date, the licensee or registrant shall notify
12 the board of their discharge from active duty within 60 days of
13 receiving their notice of discharge.

14 ~~(e) A board shall waive the renewal fees of a licensee or~~
15 ~~registrant called to active duty as a member of the United States~~
16 ~~Armed Forces or the California National Guard if the licensee or~~
17 ~~registrant is stationed outside of California.~~

18 (f) A board may adopt regulations to carry out the provisions
19 of this section.

20 (g) This section shall not apply to any board that has a similar
21 license renewal waiver process statutorily authorized for that board.

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