

Chapter 127B.

Military Affairs.

Article 1.

Military Property Sales Facilities.

§127B-1. Military property sales facility defined.

Any person, partnership, association or corporation who engages in the business of selling, consigning, purchasing, transferring or in any way acquiring military property for resale, is a "military property sales facility". Specifically excluded are facilities operated by the United States Government, the State of North Carolina or any of its agencies and persons, partnerships, associations or corporations selling or purchasing military property pursuant to a contract with the United States Government, the State of North Carolina or any of its agencies. (1985, c. 522, s. 1.)

§ 127B-2. Military property defined.

"Military property" means property originally manufactured for the United States or State of North Carolina which is a type and kind issued for use in, or furnished and intended for, the Armed Forces of the United States or the militia of the State of North Carolina. (1985, c. 522, s. 1; 2011-183, s. 91.)

§ 127B-3. License.

No person, partnership, association or corporation shall engage in the business of selling military property or purchasing military property for resale without first having obtained a license to do so from the local governing body of the city, town, or county in which it is located and by paying the county, State, and municipal tax required by law, and otherwise complying with the requirements made in this and succeeding sections. The license shall be posted in a prominent place, easily visible to the public, on the designated premises. (1985, c. 522, s. 1.)

§ 127B-4. Local governing authorities to grant and control license; bond.

(a) The governing body of any city, town, or county in this State may grant to such person, partnership, association or corporation as who shall produce satisfactory evidence of good character, a license authorizing such person, partnership, association or corporation to carry on the business of a military property sales facility. The license shall designate the building in which the person, partnership, association or corporation shall carry on the business, and no person, partnership, association or corporation shall carry on the business of a military property sales facility without being duly licensed, nor in any other building than the one designated in the license.

(b) Any person or the principal officers of any association or corporation or all the partners of any partnership applying for a license shall furnish the governing body the following information:

- (1) Full name, and any other names used by the applicant during the preceding five years, or in the case of a partnership, association or corporation, the applicant shall list any partnership, association, or corporate names used during the preceding five years;

- (2) Current address, and all addresses used by the applicant during the preceding five years;
- (3) Physical description;
- (4) Age;
- (5) Driver's license number, if any, and state of issuance;
- (6) Recent color photograph;
- (7) Record of felony convictions; and
- (8) Record of other convictions during the preceding five years.

(c) Every person, partnership, association or corporation so licensed to carry on the business of a military property sales facility shall, at the time of receiving a license, file with the governing body of the city, town, or county granting the license, a bond payable to the city, town, or county in the sum of one thousand dollars (\$1,000), to be executed by the person licensed and by two responsible sureties, or a surety company licensed to do business in the State of North Carolina, to be approved of by the governing body. The bond shall be for the faithful performance of the requirements and obligations pertaining to the business licensed. The governing body, may revoke the license and sue for forfeiture of the bond upon a breach of the licensee's duties under the bond. Any person who may obtain a judgment against a military property sales facility and upon which judgment execution is returned unsatisfied may maintain an action in his own name upon the bond of the military property sales facility, in any court having jurisdiction of the amount demanded to satisfy the judgment. (1985, c. 522, s. 1.)

§ 127B-5. Perjury; punishment.

Any person who shall willfully commit perjury in any application for a permit pursuant to this Article shall be guilty of a Class 1 misdemeanor. (1985, c. 522, s. 1; 1993, c. 539, s. 939; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 127B-6. Records to be kept.

(a) Every military property sales facility owner shall keep a book in which shall be legibly written, at the time of each transaction involving the acquisition by any means of used or new military property by the military property sales facility owner, his employee or agent, from any person, partnership, association or corporation, the following information:

- (1) An account and description of the used or new military property including if applicable, the manufacturer's name, the model, the model number, the serial number of the property, and any engraved numbers or initials found on the property. Property lacking any identifying mark or characteristic shall be marked by the military property sales facility owner in such a way as to allow clear identification of the property.
- (2) The amount of money paid;
- (3) The date of the transaction; and
- (4) The name and residence of the person selling, consigning or transferring the used or new military property.

(b) The military property sales facility owner, or his employee or agent shall require that the person selling the new or used military property, to present two forms of positive identification to him before the military property sales facility personnel may complete any transaction regarding the buying, consigning or acquiring of new or used military property. The presentation of any one

state or federal government issued identification containing a photographic representation imprinted on it shall constitute compliance with the identification requirements of this paragraph. The military property sales facility owner or his employee or agent shall legibly record this identification information next to the person's name and residence in the book required to be kept. Both the military property sales facility owner, his employee or agent and the seller, consignor or transferor of the military property shall sign the record entry.

(c) The book shall be a permanent record to be kept at all times on the premises of the place of business of the military property sales facility and shall be made available, during regular business hours, to any law enforcement officer who requests to inspect the book. A copy of the records required to be kept by this section shall be filed within 48 hours of the transaction in the office of the local law enforcement agency serving the city, town, or county which issued the license to the military. Mailing the required copy to the local law enforcement agency within 48 hours shall constitute compliance with this section. (1985, c. 522, s. 1.)

§ 127B-7. Penalties.

Any dealer who violates the provisions of this Article shall be guilty of a Class 2 misdemeanor. In addition, any dealer convicted of violating this Article shall be ineligible for a dealer's permit for a period of three years from the date of conviction. Each violation shall constitute a separate and distinct offense. (1985, c. 522, s. 1; 1993, c. 539, s. 940; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 127B-8 through 127B-9. Reserved for future codification purposes.

Article 2.

Discrimination Against Military Personnel.

§ 127B-10. Purpose.

The General Assembly finds and declares that military personnel in North Carolina vitally affect the general economy of this State and that it is in the public interest and public welfare to ensure that no discrimination against military personnel is practiced by any business. (1985, c. 522, s. 1.)

§ 127B-11. Private discrimination prohibited.

No person shall discriminate against any officer, warrant officer or enlisted person of the military forces of the State or of the United States because of their membership therein. No member of these military forces shall be prejudiced or injured by any person, employer, officer or agent of any corporation, company or firm with respect to their employment, position or status or denied or disqualified for employment by virtue of their membership or service in the military forces of this State or of the United States. (1985, c. 522, s. 1; 2011-183, s. 92.)

§ 127B-12. Public discrimination prohibited.

No officer or employee of the State, or of any county, city and county, municipal corporation, school district, water district, or other district shall discriminate against any officer, warrant officer or enlisted person of the military forces of the State or of the United States because of their membership therein. No member of the military forces shall be prejudiced or injured by any officer or employee of the State, or of any county, city and county, municipal corporation, school district, water district, or other district with respect to their employment, appointment, position or status or denied or disqualified for or discharged from their employment or position by virtue of their membership or service in the military forces of this State or of the United States. (1985, c. 522, s. 1; 2011-183, s. 93.)

§ 127B-13. Refusing entrance prohibited.

No person shall prohibit or refuse entrance to any officer, warrant officer or enlisted person of the military forces of this State or of the United States into any public place of entertainment, of amusement, or accommodation because the officer or enlisted person is wearing the uniform of the organization to which they belong or because of their membership or service in the military forces of this State or of the United States. (1985, c. 522, s. 1; 2011-183, s. 94.)

§ 127B-14. Employer discrimination prohibited.

No employer or officer or agent of any corporation, company, or firm, or other person shall discharge any person from employment because of the performance of any emergency military duty by reason of being an officer, warrant officer or enlisted person of the military forces of this State or the United States. (1985, c. 522, s. 1; 2011-183, s. 95.)

§ 127B-15. Penalties.

Any person who violates the provisions of this Article shall be deemed guilty of a Class 2 misdemeanor. Each violation shall constitute a separate and distinct offense. (1985, c. 522, s. 1; 1993, c. 539, s. 941; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 3.

Research Collaboration on Health and Other Problems.

§ 127B-20. Collaboration on research to address health and other problems required; report by UNC General Administration [System Office].

(a) The System Office of The University of North Carolina, in collaboration with Operation Re-Entry North Carolina at East Carolina University, North Carolina Translational and Clinical Sciences Institute, other institutions of higher education in this State, the North Carolina National Guard, and the United States Department of Veterans Affairs, shall, to the extent available resources allow, collaborate on research to address

the behavioral health problems and challenges facing military personnel, veterans, and their families.

(b) The research required by this section shall be conducted by collaborative research teams which shall include civilian investigators from institutions of higher learning in this State and private research organizations, health providers in regional and national military health system institutions, and providers and investigators in VISN 6 in the VA system. These teams shall aggressively pursue federal funding to conduct the research required by this section.

(c) At a minimum, the research required by this section shall include the following goals:

- (1) To define the behavioral health problems facing service members, veterans, and their families, with a special emphasis on the behavioral health needs of the reserve components of the Armed Forces of the United States, including the National Guard.
- (2) To develop, implement, and evaluate innovative pilot programs to improve the quality, accessibility, and delivery of behavioral health services provided to this population.
- (3) To evaluate the effectiveness of new programs put into place by the National Guard and other military organizations to address the behavioral health challenges facing military service personnel, veterans, and family members. The National Guard shall cooperate in providing information to assess the effectiveness of behavioral health services provided to it and its members.
- (4) To contribute to the knowledge of evidence-based behavioral health screening, diagnosis, treatment, and recovery supports for military service personnel, veterans, and their families.
- (5) To study other issues pursuant to requests by the various branches of the active and reserve components of the Armed Forces of the United States and the United States Department of Veterans Affairs, in order to improve behavioral health services for service members, veterans, and their families.

(d) On July 1, 2012, and annually thereafter, the System Office of The University of North Carolina shall report its findings to the Joint Legislative Health Care Oversight Committee and to the House of Representatives and Senate Appropriations Subcommittees on Health and Human Services. (2011-185, s. 10(a)-(d); 2018-12, s. 14.)

§ 127B-21. Reserved for future codification purposes.

§ 127B-22. Reserved for future codification purposes.

§ 127B-23. Reserved for future codification purposes.

§ 127B-24. Reserved for future codification purposes.

Article 4.

North Carolina Servicemembers Civil Relief Act.

§ 127B-25. Title.

This Article may be cited as the North Carolina Servicemembers Civil Relief Act. (2019-161, s. 1(a).)

§ 127B-26. Purpose.

This Article is intended to incorporate into State law the rights, benefits, and protections of the federal Servicemembers Civil Relief Act, Chapter 50 of Title 50 of the United States Code, and to extend those rights, benefits, and protections to members of the North Carolina National Guard serving on State active duty and to members of the National Guard of other states serving on state active duty who reside in North Carolina. Nothing in this Article is a restriction or limitation on any of the rights, benefits, and protections granted to a servicemember under federal law. (2019-161, s. 1(a).)

§ 127B-27. Definitions.

The following definitions apply in this Article:

- (1) Dependent. – As defined in 50 U.S.C. § 3911(4).
- (2) Military order. – Official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military service. In the case of a member of the North Carolina National Guard, this term includes an order from the Governor pursuant to Chapter 127A of the General Statutes, and, in the case of a member of the National Guard of another state, this term includes an order from the governor of that state.
- (3) Military service. – Any of the following:
 - a. As defined in 50 U.S.C. § 3911(2).
 - b. In the case of a member of the North Carolina National Guard, State active duty under an order of the Governor pursuant to Chapter 127A of the General Statutes, for a period of more than 30 consecutive days.
 - c. In the case of a member of the National Guard of another state, service under an order of the governor of that state that is similar to State active duty, for a period of more than 30 consecutive days.
- (4) Servicemember. – Any of the following:
 - a. A servicemember, as defined in 50 U.S.C. § 3911(1), who resides in this State.

- b. A member of the North Carolina National Guard. (2019-161, s. 1(a).)

§ 127B-28. Incorporation and expansion of federal Servicemembers Civil Relief Act; copy of military order.

(a) The rights, benefits, and protections of the federal Servicemembers Civil Relief Act, Chapter 50 of Title 50 of the United States Code, apply to a servicemember engaged in military service to the extent the servicemember's military service materially affects the servicemember's ability to comply with his or her obligations.

(b) In the case of a servicemember engaged in military service under G.S. 127B-27(3)b. or c., a person is not subject to the remedies or penalties of this Article unless the servicemember gives to the person a written or electronic copy of the military order no later than 30 days after the military service terminates.

(c) To the extent this section conflicts with another section in this Article, the other section controls.

(d) A violation of the federal Servicemembers Civil Relief Act, as expanded by this section, is a violation of this Article. (2019-161, s. 1(a).)

§ 127B-29. Dependent's rights and protections.

A dependent of a servicemember engaged in military service has the same rights and protections provided to a servicemember under G.S. 127B-30 and a dependent under Subchapter III of Chapter 50 of Title 50 of the United States Code. (2019-161, s. 1(a); 2019-243, s. 29.5(a).)

§ 127B-30. Termination of contract upon receipt of military order; requirements.

(a) It is the policy of this State that servicemembers who have entered into certain service contracts and who later receive military orders to relocate to a location that does not support those contracts as determined by the service provider should not be penalized for terminating those contracts.

(b) Termination of Contract. – In addition to the rights and protections regarding consumer transactions, contracts, and service providers provided to a servicemember under Subchapter III of Chapter 50 of Title 50 of the United States Code, a servicemember may terminate a contract described in subsection (c) of this section if the servicemember receives a military order to relocate for a period of military service of at least 90 days to a location that does not support the contract.

(c) Applicability. – This section applies to a prepaid entertainment contract as defined in G.S. 66-118. This section also applies to a contract to provide any of the following services:

- (1) Telecommunication service.
- (2) Internet service.
- (3) Television service.
- (4) Satellite radio service.

(d) Notices. – A servicemember shall give to the service provider under the contract written or electronic notice of the termination and a written or electronic copy of the military order. The notice shall state the effective date of the termination. If a servicemember terminates a contract, the service provider shall give to the servicemember written, electronic, or oral notice of the servicemember's rights.

(e) No Early Termination Charge. – For any contract terminated under this section, the service provider shall not impose an early termination charge.

(f) Refund. – Not later than 60 days after the termination date of the contract, the service provider shall refund to the servicemember any fee paid for a service that extends beyond the termination date of the contract.

(g) Unpaid Obligation. – Any tax, liability, or other obligation due and unpaid at the time of the termination remains the obligation of the servicemember.

(h) Resubscription. – If the servicemember resubscribes to the service provided under the contract, the service provider shall not impose any charge or fee other than the usual and customary charges and fees for the installation or acquisition of customer equipment imposed on any other subscriber. (2019-161, s. 1(a).)

§ 127B-31. Stay of court proceedings because of military service.

(a) At any stage of any civil action or proceeding in which a servicemember engaged in military service is a party, the court may stay the action or proceeding on its own motion and shall stay the action or proceeding on application by the servicemember, or by a person acting on behalf of the servicemember, unless the court finds that the ability of the servicemember to litigate is not materially affected by his or her military service.

(b) This section applies during the servicemember's military service and within 60 days after the military service terminates. (1997-153, s. 5; 2011-195, s. 1(a); 2019-161, s. 1(b).)

§ 127B-32. Eviction; penalty or fee; extension of lease.

(a) If a servicemember who is a member of the North Carolina National Guard, or who is a member of the National Guard of another state who resides in this State, has a lease agreement on the servicemember's residence and the lease agreement expires while the servicemember is engaged, for any period of time, in State active duty or service under an order of the governor of another state that is similar to State active duty, the servicemember is entitled to extend the lease agreement to terminate 10 days after the servicemember's State active duty or service terminates upon providing written or electronic notice to the landlord or the landlord's representative. The terms of the lease agreement during this period of extension shall be the same terms that applied during the month before the expiration.

(b) This section applies only to servicemembers who are current on all rents and security deposits required and in good standing regarding the lease agreement. Nothing in this section relieves the servicemember of the obligation to pay rent, fees, dues, or other monies required in the lease agreement on time and in full. (2019-161, s. 1(a).)

§ 127B-33. No waiver.

This Article supersedes any agreement that reduces, limits, or eliminates any right or benefit provided by this Article. (2019-161, s. 1(a).)

§ 127B-34. Violation is unfair or deceptive trade practice.

A knowing violation of this Article is an unfair or deceptive trade practice for purposes of Chapter 75 of the General Statutes. (2019-161, s. 1(a).)

§ 127B-35. Action by Attorney General.

(a) Civil Action. – The Attorney General may commence a civil action against any person that violates any provision of this Article.

(b) Remedies. – The court may order any of the following remedies:

(1) Injunction.

(2) Payment of restitution to a servicemember in the amount of money unlawfully received from, or required to be refunded to, the servicemember.

(3) Any other remedy provided under Chapter 75 of the General Statutes.

(c) Civil Penalty. – The court may assess a civil penalty not to exceed five thousand dollars (\$5,000) per violation. The clear proceeds of civil penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (2019-161, s. 1(a).)

§ 127B-36. Private right of action.

(a) Civil Action. – A servicemember aggrieved by a person's violation of any provision of this Article may commence a civil action against that person.

(b) Remedies. – The court may order any of the following remedies:

(1) Injunction.

(2) Payment of restitution to a servicemember in the amount of money unlawfully received from, or required to be refunded to, the servicemember.

(3) Damages.

(4) Any other remedy provided under Chapter 75 of the General Statutes.

(c) Costs. – A servicemember who prevails in an action under this section may recover attorneys' fees and court costs. (2019-161, s. 1(a).)