



# Ohio Legislative Service Commission

## Bill Analysis

Daniel M. DeSantis

### Sub. H.B. 488

130th General Assembly  
(As Passed by the House)

**Reps.** Dovilla, Landis, Johnson, Pillich, Barborak, Bishoff, Milkovich, Perales, Retherford, Rosenberger, R. Adams, Amstutz, Anielski, Antonio, Ashford, Baker, Beck, Blair, Blessing, Boose, Boyce, Brown, Buchy, Budish, Burkley, Butler, Carney, Celebrezze, Cera, Clyde, Curtin, Damschroder, Derickson, DeVitis, Duffey, Fedor, Foley, Gerberry, Green, Grossman, Hackett, C. Hagan, R. Hagan, Hall, Hayes, Henne, Huffman, Letson, Lundy, Lynch, Maag, McClain, McGregor, O'Brien, Patmon, Patterson, Pelanda, Ramos, Redfern, Rogers, Romanchuk, Ruhl, Scherer, Schuring, Sears, Sheehy, Smith, Sprague, Stautberg, Stebelton, Stinziano, Strahorn, Terhar, Wachtmann, Winburn, Batchelder

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## TABLE OF CONTENTS

Veterans' access to higher education.....	2
Assistance and support to veterans by state institutions of higher education.....	4
Priority in course registration for veterans and service members.....	4
Veterans' rights/veterans' law.....	4
Definitions pertaining to veterans' rights.....	5
Veterans' right to priority with regard to license applications.....	6
Veterans' educational benefits.....	6
Additional duties assigned to Director of Veterans Services.....	7
Additional definitions.....	8
Private employers veterans preference.....	8
Identity fraud – civil.....	9
Cause of action.....	9
Statute of limitations.....	10
Damages.....	10
Identity fraud and theft offenses against service members and spouses.....	11
Identity fraud – criminal.....	11
Theft.....	11
Securing writings by deception.....	12
Consolidated theft and identity fraud cases.....	12
Mandatory consolidation.....	12
Discretionary consolidation.....	13
Factual findings in theft cases.....	13
Board of Pharmacy.....	14
Waiver of licensing fees for veterans and active members of the armed forces.....	14

## **Veterans' access to higher education**

- Requires the Chancellor of the Board of Regents, by December 31, 2014, to develop standards and procedures for awarding college credit for military experience, to create a military articulation and transfer assurance guide, to create a website with that information, and to develop a statewide training program to teach college faculty and staff to translate military experience into college credit.
- Requires all state institutions of higher education to comply with the Chancellor's standards for awarding college credit for military experience not later than July 1, 2015.
- Prohibits a state institution of higher education on or after December 31, 2014, from charging a fee to a student who is a veteran or service member for the evaluation of, transcription of, or application for college credit for military experience.
- Requires each state institution of higher education by December 31, 2014, to establish an appeals procedure for resolving disputes regarding the awarding of college credit for military experience.
- Requires each state institution of higher education, not later than December 31, 2014, to designate at least one person to serve as the contact person for veterans affairs and to adopt a policy regarding the support and assistance the institution will provide to veterans.
- Requires the Chancellor to provide guidance to state institutions on designating a veterans affairs contact person and adopting a veteran support policy.
- Requires all state institutions of higher education, not later than December 31, 2014, to provide priority course registration for students who are veterans or service members.

## **College credit for military experience**

(R.C. 3333.164, 3345.44, and 3345.46)

The bill requires the Chancellor of the Board of Regents, not later than December 31, 2014, to do all of the following with regard to the awarding of college credit for military training, experience, and coursework:

(1) Develop a set of standards and procedures for state institutions of higher education to utilize in granting such credit;



(2) Create a military articulation and transfer assurance guide for such credit using the current articulation and transfer policy<sup>1</sup> as a model;

(3) Create a website that contains information related to the awarding of such credit. The bill requires that the website include both standardized resources that address frequently asked questions regarding the awarding of college credit for military experience and related issues and a statewide database that demonstrates how specified military training, experience, and coursework translates into college credit.

(4) Develop a statewide training program that prepares faculty and staff of state institutions of higher education to evaluate various military training, experience, and coursework and to award appropriate equivalent credit. The training program must incorporate the best practices of awarding credit for military experiences, including both the recommendations of the American Council on Education and the standards developed by the Council for Adult and Experiential Learning.<sup>2</sup>

The bill also requires state institutions of higher education, beginning July 1, 2015, to ensure that appropriate equivalent credit is awarded for military training, experience, and coursework that meet the standards developed by the Chancellor.<sup>3</sup>

In a separate provision, effective on or after December 31, 2014, the bill prohibits state institutions of higher education from charging a student who is a veteran or a "service member" any fee for the evaluation of, transcription of, or application for college credit for military experience.<sup>4</sup>

Finally, in another separate provision, the bill requires the board of trustees of each state institution of higher education, not later than December 31, 2014, to establish an appeals procedure for students who are veterans for resolving disputes regarding the awarding of college credit for military experience.<sup>5</sup>

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<sup>1</sup> R.C. 3333.16, not in the bill.

<sup>2</sup> R.C. 3333.164(B)(1) to (4).

<sup>3</sup> R.C. 3333.164(C).

<sup>4</sup> R.C. 3345.46. For purposes of this provision and the registration priority provision, described below, the bill defines a "service member" as a person who is serving in the Armed Forces of the United States, and a "veteran" as a person who has completed service in the Armed Forces, including the National Guard of any state or a reserve component of the Armed Forces, and who has been discharged under honorable conditions from the Armed Forces or who has been transferred to the reserve with evidence of satisfactory service. (R.C. 3345.43(B) and 3345.46(B).)

<sup>5</sup> R.C. 3345.44.

## **Assistance and support to veterans by state institutions of higher education**

(R.C. 3345.42)

The bill requires the board of trustees of each state institution of higher education, not later than December 31, 2014, to designate at least one person employed by the institution to serve as the contact person for veterans affairs. The person or persons designated may not be a person currently designated by the institution as a veterans administration certifying official. This contact person must assist and advise veterans on issues related to earning college credit for military training, experience, and coursework. The bill also requires each board of trustees to adopt a policy regarding the support and assistance that the institution will provide to veterans. The Chancellor must provide guidance to state institutions in complying with this provision, including the recommendation of standardized policies on support and assistance to veterans.<sup>6</sup>

## **Priority in course registration for veterans and service members**

(R.C. 3345.43)

The bill requires each state institution of higher education, beginning December 31, 2014, to provide a student who is either a veteran or service member priority for registering for courses at the institution.<sup>7</sup>

## **Veterans' rights/veterans' law**

- Defines terms – "armed forces," "member," "veteran," "merchant marine," "license," "licensing agency," "licensee," and "military program of training" – that are used in the laws providing veterans' rights.
- Requires each licensing agency to develop processes leading to the prioritizing and expediting of certification or licensing for each applicant who is a service member or veteran, and requires the processes to include special accommodations for applicants facing imminent deployment.
- Requires a licensing agency to apply for approval to the state approving agency at the Ohio Department of Veterans Services so that veterans and other eligible persons will be able to receive education benefits, including compensation for the cost of licensing examinations, through the U.S. Department of Veterans Affairs.

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<sup>6</sup> R.C. 3345.42.

<sup>7</sup> R.C. 3345.43(A).



- Assigns additional duties to the Director of Veterans Services to assist veterans in obtaining education, jobs, and occupational and professional licenses.
- Defines "armed forces of the United States" in the laws pertaining to veterans' homes and in the laws providing for the licensing of physicians and limited medical practitioners.

### **Definitions pertaining to veterans' rights**

(R.C. 5903.01 and 5903.03(A); 4743.04(A) and (D), 5903.10(A), 5903.11(E)(6), (7), and (12), 5903.12(A)(2) to (4), and 5903.121 (conforming amendments))

The bill defines the following terms as they apply in the statutes pertaining to veterans' rights:

"Armed forces" means the armed forces of the United States, including the Army, Navy, Air Force, Marine Corps, Coast Guard, or any reserve components of those forces; the national guard of any state; the Commissioned Corps of the United States Public Health Service; the Merchant Marine service during wartime; such other service as may be designated by Congress; or the Ohio Organized Militia when engaged in full-time National Guard duty for a period of more than 30 days.

"License" means a license, certificate, permit, or other authorization issued or conferred by a licensing agency under which a licensee may engage in a profession, occupation, or occupational activity.

"Licensee" means a person who has been issued a license by a licensing agency, who has been a member of the armed forces, and who served on active duty, whether inside or outside the United States, for a period in excess of 31 days.

"Licensing agency" means any state department, division, board, commission, agency, or other state governmental unit authorized by the Revised Code to issue a license.

"Member" means any person who is serving in the armed forces.

"Merchant Marine" includes the United States Army Transport Service and the United States Naval Transport Service.<sup>8</sup>

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<sup>8</sup> This definition, cast in inclusive form, together with that of "armed forces," presumably intends for the Army and Navy transport services to be considered part of the U.S. merchant marine, at least in wartime.

"Veteran" means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been discharged under honorable conditions from the armed forces or who has been transferred to the reserve with evidence of satisfactory service.

For purposes of the law requiring licensing agencies to consider military education and experience in determining whether to grant a license, the bill also defines a "military program of training" as a training program of the armed forces.

For purposes of the law regarding veterans' rights related to licensing, the bill expands the meaning of "armed forces" to include elements of the armed forces licensing agencies might not consider under current eligibility standards.

### **Veterans' right to priority with regard to license applications**

(R.C. 5903.04; Section 4)

The bill requires each licensing agency to adopt rules under the Administrative Procedure Act to establish and implement (1) a process to obtain from each applicant documentation and additional information necessary to determine if the applicant is a member or veteran of the armed forces, or the spouse or surviving spouse of a member or veteran, (2) a process to record, track, and monitor these applications, and (3) a process to prioritize or expedite certification or licensing for each such applicant. In establishing these processes, the licensing agency must include any special accommodations that may be appropriate for applicants facing imminent deployment. The initial rules must be adopted not later than December 31, 2014.

### **Veterans' educational benefits**

(R.C. 5903.05; Section 5)

The bill requires a licensing agency to apply for approval to the state approving agency at the Ohio Department of Veterans Services; this approval is to enable a veteran or eligible person<sup>9</sup> to receive education benefits through the United States Department

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The U.S. merchant marine is the fleet of civilian-owned merchant vessels, operated by public or private persons, that engages in commerce or in the transportation of goods and services in and out of the navigable waters of the U.S. In wartime, the merchant marine can function as an auxiliary to the Navy, and can be called upon to deliver troops and supplies for the military. (A famous example of this was the Atlantic convoys during World War II.) The merchant marine traditionally does not have a role in combat, but can do whatever is necessary to protect its cargo.

<sup>9</sup> An "eligible person" is (1) a child of a person who died of a service-connected disability, who has a total permanent disability resulting from a service-connected disability, or who died while such a disability was in existence, (2) the surviving spouse of any person who died of a service-connected disability, (3) the



of Veterans Affairs.<sup>10</sup> The bill requires each licensing agency to submit initial applications for approval not later than December 31, 2014. Licensure tests, which presumably are of particular interest to licensing agencies and applicants, are deemed to have been approved as an educational benefit under federal law if they are offered by "state government."<sup>11</sup>

### **Additional duties assigned to Director of Veterans Services**

(R.C. 5902.02(BB), (CC), (DD), and (EE); Section 3)

The bill assigns the following additional duties to the Director of Veterans Services: (1) to develop and maintain a website that is accessible by veterans and their dependents and that provides a link to the website of each state agency that issues a license, certificate, or other authorization permitting an individual to engage in an occupation or occupational activity, (2) to encourage state agencies to perform outreach efforts through which veterans and their dependents can learn about available job and education benefits, (3) to inform state agencies about changes in statutes or rules that affect veterans and their dependents, and (4) to assist licensing agencies in adopting rules for determining which military programs of training, military primary specialties, and lengths of service are substantially equivalent to or exceed the educational and experience requirements for a license issued by the agency.<sup>12</sup> The Director of Veterans Services must implement these additional duties not later than December 31, 2014.

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spouse or child of any member of the armed forces serving on active duty who has been listed as missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power, (4) the spouse of any person who has a total permanent disability resulting from a service-connected disability or the surviving spouse of a veteran who died while such a disability was in existence, or (5) the spouse or child of a member of the armed forces who is hospitalized or receiving outpatient medical care, services, or treatment, who has a total permanent disability incurred or aggravated in line of duty, and who is likely to be discharged or released from active duty for the disability. 38 U.S.C. 3501(a)(1).

<sup>10</sup> 38 U.S.C. 3672(a).

<sup>11</sup> 38 U.S.C. 3672(a)(2)(B).

<sup>12</sup> Under continuing law, R.C. 5903.03(B), a licensing agency must consider a license applicant (1) to have met the educational requirement for the license if the applicant has completed a military program of training and has been awarded a military primary specialty at a level that is substantially equivalent to or exceeds the educational requirement for the license and (2) to have met the experience requirement for the license if the applicant has served in that military primary specialty under honorable conditions for a period of time that is substantially equivalent to or exceeds the experience requirement for the license. A licensing agency must adopt rules for making these findings under R.C. 5903.03(C).

## **Additional definitions**

(R.C. 4731.36(A)(1) and (A) (last paragraph), 5907.01(A)(1), and 5907.04)

In the law pertaining to veterans' homes, and in the law pertaining to the licensing of physicians and limited medical practitioners, the bill defines "armed forces of the United States" to mean the Army, Air Force, Navy, Marine Corps, Coast Guard, and any other military service branch that is designated by Congress as part of the U.S. armed forces.

## **Private employers veterans preference**

The bill authorizes an employer<sup>13</sup> to adopt a policy to provide a preference for employment decisions, including hiring, promotion, or retention during a reduction in force, to a member, veteran, or the spouse or surviving spouse of a member or veteran. And specifies that such a policy is not a violation of state or local equal employment opportunity law and does not constitute an unlawful discriminatory practice.

The bill also requires the Ohio Department of Job and Family Services to maintain a registry of employers that have a voluntary veterans preference employment policy. The registry must be made available to the public on the department's website. Employers who elect to adopt such a policy must notify the Department.<sup>14</sup>

## **Identify fraud and theft**

- Expressly provides for a civil cause of action based on most types of criminal identity fraud and for injunctive relief in such a case.
- Requires that a civil action based on most types of identity fraud be brought within five years from the date on which the identity of the offender was discovered or reasonably should have been discovered.
- Provides that in a civil action based on most types of identity fraud, the plaintiff may recover damages up to \$5,000 for each violation or three times the amount of actual damages, whichever is greater, and reasonable attorney's fees.

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<sup>13</sup> "Employer" means any person who has one or more employees, and includes an agent of an employer. But does not include the state or any agency or instrumentality of the state, and any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality thereof.

<sup>14</sup> R.C. 5903.15.



- Raises the level of the offenses of identity fraud, theft, and securing writings by deception one degree if the victim is an active duty member of the armed forces or the spouse of an active duty member.
- Requires the consolidation of criminal theft or identity fraud cases involving a victim who is an active duty service member or spouse of an active duty service member when the offender commits the offense in the offender's same employment, capacity, or relationship to another.
- Permits the consolidation of criminal theft or identity fraud cases involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct.
- Modifies the dollar-value categories on which findings made by the trier of fact must be based in certain theft, identity fraud, and other criminal cases.

## Identity fraud – civil

### Cause of action

The bill expressly states that an owner of the identifying information involved in the commission of identity fraud who is injured in person or property by the commission of the offense has a civil action against the offender. The types of identity fraud affected by this provision are described in paragraphs (1), (3), and (4) under "**Statute of limitations**," below. The bill further provides that the owner may bring a civil action to enjoin or restrain future acts that would constitute a commission of such identity fraud.<sup>15</sup>

Current law creates a general civil cause of action for injury to person or property by a criminal act, but does not contain a cause of action expressly for identity fraud.<sup>16</sup>

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<sup>15</sup> R.C. 2913.49(J).

<sup>16</sup> R.C. 2307.60(A)(1), not in the bill.



## Statute of limitations

The bill extends the period within which a civil action may be brought for an injury to person or property resulting from the commission of most types of identity fraud. Identity fraud, which is a felony, consists of any of the following:<sup>17</sup>

(1) Using, obtaining, or possessing any personal identifying information of another person, without that person's express or implied consent, with intent to hold oneself out to be the other person or to represent the other person's personal identifying information as one's own personal identifying information;

(2) Creating, obtaining, possessing, or using the personal identifying information of any person with the intent to aid or abet another person in committing the acts described in paragraph (1);

(3) With intent to defraud, permitting another person to use one's own personal identifying information;

(4) With intent to defraud by doing an act described in paragraph (1), using, obtaining, or possessing another person's personal identifying information that one has permission to use.

A civil action based on a criminal act is a tort action.<sup>18</sup> Under current law, a tort action based on identity fraud must be brought within five years after the cause of action accrues.<sup>19</sup> A cause of action in tort usually accrues when the wrongful act is committed.<sup>20</sup> Under the bill, a tort action based on identity fraud as described in paragraph (1), (3), or (4) must be brought within five years from the date on which the identity of the offender was discovered or reasonably should have been discovered.<sup>21</sup>

## Damages

Traditionally, under the common law, the plaintiff in a tort action may seek compensatory (or "actual") damages and in some cases may also recover punitive damages.<sup>22</sup> The general rule may be modified by statute. The bill provides that in an

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<sup>17</sup> R.C. 2913.49(B), (C), (D), and (E).

<sup>18</sup> R.C. 2307.60(B)(1)(a), not in the bill.

<sup>19</sup> R.C. 2305.09(C), not in the bill.

<sup>20</sup> *Lynch v. Dial Fin. Co. of Ohio No. 1, Inc.*, 101 Ohio App.3d 742, *appeal dismissed*, 73 Ohio St.3d 1410 (1995).

<sup>21</sup> R.C. 2305.112.

<sup>22</sup> *Mogle v. Black*, 3 Ohio Cir. Dec. 27 (1890), *aff'd*, 51 Ohio St. 582 (1894); *see* R.C. 2315.21.



action based on identity fraud as described in paragraph (1), (3), or (4) under "**Statute of limitations**," the plaintiff may recover damages up to \$5,000 for each violation or three times the amount of actual damages, whichever is greater, and reasonable attorney's fees.<sup>23</sup>

## **Identity fraud and theft offenses against service members and spouses**

### **Identity fraud – criminal**

Identity fraud is normally a felony of the fifth degree, but the level of the offense increases with the value of the credit, property, services, debt, or other legal obligation involved, as follows:<sup>24</sup>

- (1) Felony of the fourth degree if the value is \$1,000 or more but less than \$7,500;
- (2) Felony of the third degree if the value is \$7,500 or more but less than \$150,000;
- (3) Felony of the second degree if the value is \$150,000 or more.

Under current law, identity fraud is an offense of the next highest degree if the victim is an elderly person or disabled adult. The bill similarly raises the level of the offense if the victim is an active duty service member or the service member's spouse, and it refers to active duty service members, their spouses, elderly persons, and disabled adults collectively as protected classes. The bill defines "active duty service member" as any member of the armed forces of the United States performing active duty under federal law.<sup>25</sup>

### **Theft**

Theft is normally a misdemeanor of the first degree, but the level of the offense is higher under certain circumstances. Under current law, theft is at least a felony of the fifth degree if the victim is an elderly person or disabled adult and increases if in addition the value of the stolen property or services exceeds specified thresholds, as follows:<sup>26</sup>

- (1) Felony of the fourth degree if the value is \$1,000 or more but less than \$7,500;

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<sup>23</sup> R.C. 2307.611.

<sup>24</sup> R.C. 2913.49(I)(3).

<sup>25</sup> Title 10 of the United States Code.

<sup>26</sup> R.C. 2913.02(B)(2) and (3).



(2) Felony of the third degree if the value is \$7,500 or more but less than \$37,500;

(3) Felony of the second degree if the value is \$37,500 or more but less than \$150,000;

(4) Felony of the first degree if the value is \$150,000 or more.

The bill applies these higher offense levels when the victim is an active duty service member or the service member's spouse, and it refers to active duty service members, their spouses, elderly persons, and disabled adults collectively as protected classes.<sup>27</sup>

### **Securing writings by deception**

The offense of securing writings by deception (causing another to execute any writing that disposes of or encumbers property or by which a pecuniary obligation is incurred) is normally a misdemeanor of the first degree or a felony of the fifth, fourth, or third degree, depending on the value of the property involved or the obligation incurred. However, the level of the offense is one degree higher in each instance if the victim is an elderly person or disabled adult. The bill retains these increases and also raises the level of the offense one degree if the victim is an active duty service member or spouse of an active duty service member.<sup>28</sup>

### **Consolidated theft and identity fraud cases**

#### **Mandatory consolidation**

Under current law, when a series of theft offenses, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of the theft statute, identity fraud statute, or certain other criminal statutes involving a victim who is an elderly person or a disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses must be tried as a single offense. The value of the property or services involved in the series of offenses is aggregated in determining the value for purposes of the factual findings described below under "**Factual findings in theft cases.**"

The bill retains these provisions and also requires that a series of offenses under the theft statute, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of the theft or identity fraud statutes involving a victim who is an active duty service member or spouse of an active duty

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<sup>27</sup> R.C. 2913.02(B)(3).

<sup>28</sup> R.C. 2913.43.



service member committed by the offender in the offender's same employment, capacity, or relationship to another, all be tried as a single offense. The existing rule of aggregation of value applies.<sup>29</sup>

### **Discretionary consolidation**

Under current law, if an offender commits a series of offenses under the theft statute that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of the theft statute, identity fraud statute, or certain other criminal statutes, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved in the series of offenses is aggregated in determining the value for purposes of the factual findings described below under "**Factual findings in theft cases.**"

The bill retains these provisions and also permits the trial as a single offense the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of the theft or identity fraud statute, whether committed against one victim or more than one victim, involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct. In such a case, the rule of aggregation applies.<sup>30</sup>

### **Factual findings in theft cases**

The bill modifies the statute governing factual findings in criminal theft cases and in cases involving victims who are elderly persons or disabled adults in which solicitors for charities commit deceptive acts or practices. The Revised Code requires the finder of fact to determine the value of the property or services involved as of the time of the offense and, if a guilty verdict is returned, to return the finding of value as part of the verdict. However, if the value of the property or services involved is \$1,000 or more, the finder of fact need not find the exact value. It is sufficient if the finding is to the effect that the value of the property or services involved was one of the following, whichever is relevant regarding the offense:<sup>31</sup>

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<sup>29</sup> R.C. 2913.61(C)(1).

<sup>30</sup> R.C. 2913.61(C)(2).

<sup>31</sup> R.C. 2913.61(A).



- \$1,000 or more and less than \$7,500 (separated by the bill into two categories, *\$1,000 or more* and *\$1,000 or more and less than \$7,500*);
- \$1,500 or more and less than \$7,500 (a new category created by the bill);
- \$7,500 or more and less than \$37,500 (listed twice in current law, with the second instance deleted by the bill);
- \$7,500 or more and less than \$150,000;
- \$37,500 or more and less than \$150,000 (listed twice in current law, with the second instance changed by the bill to \$37,500 or more);
- \$150,000 or more;
- \$150,000 or more and less than \$750,000;
- \$750,000 or more and less than \$1,500,000;
- \$1,500,000 or more.

## **Board of Pharmacy**

- Waives the fees associated with the issuance and renewal of a license to practice pharmacy for veterans and active members of the armed forces.

### **Waiver of licensing fees for veterans and active members of the armed forces**

(R.C. 4729.15)

The bill waives the fees associated with the issuance and renewal of a license to practice pharmacy for veterans and active members of the United States armed forces. These include fees for application, examination, licensure, renewal, reciprocal licensure, issuing a replacement license or identification card, and certifying grades and licensure for reciprocal licensure, as well as licensure, renewal, and replacement fees for pharmacy interns. For a veteran to receive the fee waiver, the veteran must present a DD-214 form or an equivalent document issued by the Department of Defense that indicates that the veteran has been honorably discharged from the armed forces. The bill authorizes the State Board of Pharmacy to establish additional limits with respect to the fee waiver.



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## HISTORY

### ACTION

### DATE

Introduced	03-18-14
Reported, H. Military & Veterans Affairs	04-09-14
Passed House (92-0)	04-09-14

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