

CHAPTER 142**MILITARY SERVICE AND MILITARY PERSONNEL —
EDUCATION, EMPLOYMENT, BENEFITS, AND TAXATION***H.F. 674*

AN ACT relating to income tax deductions and exemptions for military service personnel and organizations, and including effective and applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12D.5, subsection 2, paragraph a, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Attendance of the designated beneficiary at the United States military academy, the United States naval academy, the United States air force academy, the United States coast guard academy, or the United States merchant marine academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education, as defined by 10 U.S.C. § 2005(e)(3), as in effect on the date of the enactment of this subparagraph, attributable to such attendance.

Sec. 2. Section 12D.9, subsection 1, paragraph f, Code 2003, is amended to read as follows:

f. Pursuant to section 12D.5, subsection 1, penalties are provided on refunds of earnings which are not used for qualified higher education expenses of the beneficiary, made on account of the death or disability of the designated beneficiary, or made due to scholarship, allowance, or payment receipt as provided in section 529(b)(3) of the Internal Revenue Code, or made in the amount of the costs for attendance at the United States military, naval, air force, coast guard, or merchant marine academy.

Sec. 3. Section 29A.28, Code 2003, is amended to read as follows:

29A.28 LEAVE OF ABSENCE OF CIVIL EMPLOYEES.

1. All officers and employees of the state, or a subdivision thereof, or a municipality other than employees employed temporarily for six months or less, who are members of the national guard, organized reserves or any component part of the military, naval, or air forces or nurse corps of this state or nation, or who are or may be otherwise inducted into the military service of this state or of the United States, shall, when ordered by proper authority to state active duty, active state service or federal service, be entitled to a leave of absence from such civil employment for the period of state active duty, active state service, or federal service, without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence. Where state active duty, active state service, or federal service is for a period less than thirty days, a leave of absence under this section shall only be required for those days that the civil employee would normally perform services for the state, subdivision of the state, or a municipality.

2. The proper appointing authority may make a temporary appointment to A state agency, subdivision of the state, or municipality may hire a temporary employee to fill any vacancy created by such leave of absence. Temporary employees hired to fill a vacancy created by a leave of absence under this section shall not count against the number of full-time equivalent positions authorized for the state agency, subdivision of the state, or municipality.

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the same position and classification held by the employee at the time of entry onto state active duty, active state service, or federal service or to the position and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, active state service, or federal service. Under this subsection, "position" includes the geographical location of the position.

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §36 herein

Sec. 4. Section 35.1, subsection 2, paragraph b, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Former members of the armed forces of the United States if any portion of their term of enlistment would have occurred within the time period specified in paragraph "a", subparagraph (9), but who instead opted to serve five years in the reserve forces of the United States, as allowed by federal law, and who were discharged under honorable conditions.

Sec. 5. Section 422.7, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 39. Subtract, to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for service performed on or after January 1, 2003, pursuant to military orders related to Operation Iraqi Freedom, Operation Noble Eagle, and Operation Enduring Freedom.

NEW SUBSECTION. 40. Subtract, not to exceed one thousand five hundred dollars, the overnight transportation, meals, and lodging expenses, to the extent not reimbursed, incurred by the taxpayer for travel away from home of more than one hundred miles for the performance of services by the taxpayer as a member of the national guard or armed forces military reserve.

NEW SUBSECTION. 41. Subtract, to the extent included, military student loan repayments received by the taxpayer serving on active duty in the national guard or armed forces military reserve or on active duty status in the armed forces.

Sec. 6. Section 422.7, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 42. Subtract, to the extent not otherwise excluded, the amount of the death gratuity payable under 10 U.S.C. §§ 1475-1491 for deaths occurring after September 10, 2001.

Sec. 7. Section 422.9, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. If the taxpayer has a deduction for miscellaneous expenses under section 67 of the Internal Revenue Code, the taxpayer shall recompute for the purposes of this subsection the amount of the deduction under section 67 by excluding from the expenses, the amount subtracted under section 422.7, subsection 40.

Sec. 8. Section 422.21, unnumbered paragraph 2, Code 2003, is amended to read as follows:

An individual in the armed forces of the United States serving in an area designated by the president of the United States or the United States Congress as a combat zone or as a qualified hazardous duty area, or deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the United States secretary of defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became such a contingency operation by the operation of law, or an individual serving in support of those forces, is allowed the same additional time period after leaving the combat zone or the qualified hazardous duty area, or ceasing to participate in such contingency operation, or after a period of continuous hospitalization, to file a state income tax return or perform other acts related to the department, as would constitute timely filing of the return or timely performance of other acts described in section 7508(a) of the Internal Revenue Code. For the purposes of this paragraph, "other acts related to the department" includes filing claims for refund for any tax administered by the department, making tax payments other than withholding payments, filing appeals on the tax matters, filing other tax returns, and performing other acts described in the department's rules. The additional time period allowed applies to the spouse of the individual described in this paragraph to the extent the spouse files jointly or separately on the combined return form with the individual or when the spouse is a party with the individual to any matter for which the additional time period is allowed.

Sec. 9. Section 422.34, subsection 2, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An organization that would have qualified as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code but for the fact that the requirement that substantially all of the members who are not past or present members of the United States armed forces is not met because such members include ancestors or lineal descendants, shall be considered for purposes of the exemption from taxation under this division as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code.

Sec. 10. STATE FUNDING. The military service tax exemptions and credits provided pursuant to the amendment to section 35.1 of this Act shall be funded pursuant to chapter 426A and section 25B.7, subsection 2.

Sec. 11. EFFECTIVE AND APPLICABILITY DATES.

1. Except as provided in subsections 2, 3, 4, 5, and 6, this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003, for tax years beginning on or after that date.

2. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003.

3. Section 4 of this Act amending section 35.1, being deemed of immediate importance, takes effect upon enactment.

4. Section 6 of this Act, amending section 422.7 to allow for the subtraction of additional death gratuity benefits, being deemed of immediate importance, takes effect upon enactment and applies retroactively to tax years ending after September 10, 2001.

5. Section 8 of this Act, amending section 422.21, being deemed of immediate importance, takes effect upon enactment and applies to any period for performing an act that has not expired before the effective date.

6. Section 9 of this Act, amending section 422.34, being deemed of immediate importance, takes effect upon enactment and applies to tax years beginning after the effective date.

Approved May 21, 2003

CHAPTER 143

WINE AND BEER MANUFACTURING, SALE, AND DISTRIBUTION

H.F. 682

AN ACT relating to wine by providing for native wine permits, providing wine gallonage tax revenue to support grape and wine development, providing for fees, and providing an effective date and retroactive applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.3, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 22A. "Native wine" means wine manufactured in this state.