

HOUSE BILL No. 4860

June 3, 1997, Introduced by Reps. McBryde, Owen, DeHart, Bodem, Gernaat, Goschka, Hammerstrom, Oxender, Dalman, Horton, Raczkowski, Jelinek, Jellema, London, Richner, Bobier, DeVuyst, Jansen, Brackenridge, Law and Birkholz and referred to the Committee on Judiciary.

A bill to amend 1967 PA 150, entitled
"Michigan military act,"
by amending the title and sections 105, 159, and 179 (MCL 32.505,
32.559, and 32.579).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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An act to provide for the militia of this state and its

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organization, command, personnel, administration, training,

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supply, discipline, DEPLOYMENT, employment, and retirement; —,

5

and to repeal ~~certain~~ acts and parts of acts.

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Sec. 105. The definitions used in the command, administra-

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tion, supply, training, discipline, DEPLOYMENT, and employment of

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the armed forces of the United States, unless clearly

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inapplicable or contradictory, are adopted with respect to the

1 state military establishment except as otherwise provided in this
2 act. As used in this act:

3 (a) "Military" ~~refers~~ MEANS A REFERENCE to all components
4 of the state military establishment.

5 (b) "Michigan national guard" means the army national guard
6 and the air national guard.

7 (c) "Commander-in-chief" means the governor of ~~the~~ THIS
8 state.

9 (d) "Active state service", as applied to the national guard
10 and the defense force, means military service in support of civil
11 authorities ~~when so~~ INCLUDING, BUT NOT LIMITED TO, SUPPORT IN
12 THE ENFORCEMENT OF LAWS PROHIBITING THE IMPORTATION, SALE, DELIV-
13 ERY, POSSESSION, OR USE OF A CONTROLLED SUBSTANCE, IF ordered by
14 the governor or as otherwise provided in this act. AS USED IN
15 THIS SECTION, "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED
16 IN SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
17 MCL 333.7104.

18 (e) "Special duty" means military service in support of the
19 full-time operation of the state military establishment for
20 ~~periods~~ A PERIOD of ~~at least~~ NOT LESS THAN 1 day ~~when so~~ IF
21 ordered by competent authority.

22 (f) "Active service" means service, including active state
23 service and special duty ~~as may be~~ required by law, regulation,
24 or pursuant to order of the governor. ~~, and also the continuing~~
25 ~~obligations of active members of the national guard and the~~
26 ~~defense force to serve by virtue of their commissions,~~
27 ~~appointments or enlistments.~~ ACTIVE SERVICE INCLUDES CONTINUING

1 SERVICE OF AN ACTIVE MEMBER OF THE NATIONAL GUARD AND THE DEFENSE
2 FORCE IN FULFILLING THAT ACTIVE MEMBER'S COMMISSION, APPOINTMENT,
3 OR ENLISTMENT.

4 (g) "Inactive status" ~~applies to~~ MEANS THE STATUS OF those
5 members of the national guard who are ~~carried upon~~ LISTED ON an
6 inactive list ~~as~~ authorized by A federal ~~laws~~ STATUTE or
7 ~~regulations~~ REGULATION.

8 (h) "In the service of the United States" and "not in the
9 service of the United States" ~~means~~ MEAN the same as those
10 terms are used and construed ~~in the~~ UNDER federal laws and
11 regulations.

12 (i) "Officer" means a commissioned officer and a warrant
13 officer, unless a distinction between commissioned officer and
14 warrant officer is clearly evident.

15 (j) "Martial law" or "martial rule" means the exercise of
16 partial or complete military control over domestic territory in
17 time of emergency because of public necessity.

18 (k) "Armory" means ~~the buildings, facilities,~~ A BUILDING,
19 FACILITY, OR THE lots and grounds used by an army, ~~naval~~ NAVY,
20 or air unit of the organized militia as A home station.

21 (l) "Military establishment" means the organized militia of
22 this state, including the employees and equipment assigned or
23 necessary to carry out the provisions of this act.

24 Sec. 159. (1) The governor may enter into ~~agreements~~ AN
25 AGREEMENT with the governors of 1 OR MORE other states ~~under~~
26 ~~which~~ AUTHORIZING the military forces of this state, in time of
27 invasion, rebellion, public disaster, or catastrophe, ~~may~~ OR TO

1 ASSIST A STATE OR LOCAL LAW ENFORCEMENT AGENCY IN ENFORCING A LAW
2 PROHIBITING THE IMPORTATION, SALE, DELIVERY, POSSESSION, OR USE
3 OF A CONTROLLED SUBSTANCE AS THAT TERM IS DEFINED IN SECTION 7104
4 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104, OR AS
5 DEFINED IN A SIMILAR LAW OF THE OTHER STATE, TO be employed
6 within the area of the other states for mutual assistance in the
7 public interest.

8 (2) A MEMBER OF THE NATIONAL GUARD FROM ANOTHER STATE PER-
9 FORMING SUPPORT DUTY TO A FEDERAL, STATE, OR LOCAL LAW ENFORCE-
10 MENT AGENCY IN THIS STATE HAS THE SAME IMMUNITY FROM LIABILITY
11 AND PROSECUTION AS DOES A MEMBER OF THE MICHIGAN NATIONAL GUARD
12 IN PERFORMING SUPPORT DUTY TO A FEDERAL, STATE, OR LOCAL LAW
13 ENFORCEMENT AGENCY.

14 (3) THE MICHIGAN NATIONAL GUARD IS A LAW ENFORCEMENT AGENCY
15 UNDER THIS ACT SOLELY FOR THE PURPOSE OF RECEIVING OR USING PROP-
16 erty OR MONEY FORFEITED UNDER SECTION 981(e)(2) OF TITLE 18 OF
17 THE UNITED STATES CODE, 18 U.S.C. 981, SECTION 616 OF PART V OF
18 TITLE IV OF THE TARIFF ACT OF 1930, CHAPTER 497, 98 STAT. 2987,
19 19 U.S.C. 1616a, AND SECTION 511(e)(1)(A) OF PART E OF THE CON-
20 TROLLED SUBSTANCES ACT, TITLE II OF THE COMPREHENSIVE DRUG ABUSE
21 PREVENTION AND CONTROL ACT OF 1970, PUBLIC LAW 91-513, 21
22 U.S.C. 881.

23 Sec. 179. (1) ~~(a)~~ No civilian person, except the gover-
24 nor, may command personnel of the state military establishment.

25 (2) ~~(b) whenever~~ IF any portion of the organized militia
26 is called into active state service or into the service of the
27 United States to execute the laws, engage in disaster relief,

1 suppress or prevent actual or threatened riot or insurrection, or
 2 repel invasion, ~~any~~ OR TO ENFORCE A LAW PROHIBITING THE IMPOR-
 3 TATION, SALE, DELIVERY, POSSESSION, OR USE OF A CONTROLLED SUB-
 4 STANCE AS THAT TERM IS DEFINED IN SECTION 7104 OF THE PUBLIC
 5 HEALTH CODE, 1978 PA 368, MCL 333.7104, A commanding officer
 6 shall use his OR HER own judgment ~~with respect to the propriety~~
 7 ~~of~~ IN apprehending or dispersing any ~~snipers~~ SNIPER, ~~rioters~~
 8 RIOTER, A mob, or unlawful assembly. ~~Such commander~~ THAT COM-
 9 MANDING OFFICER shall determine the amount and kind of force to
 10 be used in preserving the peace and carrying out the orders of
 11 the governor. ~~His~~ THAT COMMANDING OFFICER'S honest and reason-
 12 able judgment under the circumstances then existing, ~~in the~~
 13 ~~exercise of~~ EXERCISING his OR HER duty, ~~shall be~~ IS full pro-
 14 tection, civilly and criminally, for any act ~~or acts~~ done
 15 ~~while~~ in THE line of duty. ~~and no~~ A member of the organized
 16 militia in active state service or in the service of the United
 17 States ~~shall be~~ IS NOT liable civilly or criminally for any act
 18 ~~or acts~~ done by him OR HER in the performance of his OR HER
 19 duty.

20 (3) ~~(c)~~ A member of the organized militia in active state
 21 service or in the service of the United States, ~~while~~ IF acting
 22 in aid of civil authorities and in THE line of duty ~~shall have~~
 23 HAS the ~~immunities~~ IMMUNITY of a peace officer.

24 (4) ~~(d)~~ The attorney general of Michigan shall defend any
 25 civil action or criminal prosecution brought in ~~any court,~~ A
 26 state or federal COURT, against ~~any~~ A member of the organized
 27 militia or his OR HER estate, arising from ~~any~~ AN act or

1 omission alleged to have been committed while in active state
2 service or in the service of the United States.