



House Bill 5501 (Substitute H-1 as passed by the House)  
Sponsor: Representative Randy Richardville  
House Committee: Veterans Affairs  
Senate Committee: Senior Citizens and Veterans Affairs

Date Completed: 2-27-02

## **CONTENT**

**The bill would amend the Michigan Military Act to expand the law enforcement powers and immunity from liability of the State's organized militia, and expand the duties of the Director of the Department of Military and Veterans Affairs, regarding responding to terrorism and safeguarding the State's military property and vital resources.** ("Vital resource" would mean a public or private building, facility, property, function, or location, the protection of which was considered necessary to the public health, safety, and welfare and that the Governor had designated, in writing, as a vital resource of this State.)

### Law Enforcement and Immunity

The Act provides that, if any portion of the organized militia is called into "active state service" or into the service of the United States to execute the laws, engage in disaster relief, suppress or prevent actual or threatened riot or insurrection, or repel invasion, or to assist in the enforcement of drug laws, a commanding officer must use his or her judgment in apprehending or dispersing a sniper, rioter, mob, or unlawful assembly.

Under the bill, that provision also would apply when the organized militia was activated to respond to acts or threats of terrorism or to safeguard military or other vital resources of this State or the United States. In addition, a commanding officer would have to use his or her own judgment in apprehending a person, if reasonable grounds existed to believe that the person had committed a misdemeanor within the officer's presence or had committed a felony on a State military base, an armory base, an air base, or a vital resource of this State or the United States.

The Act provides that a member of the organized militia in active State service or in the service of the United States has the immunity of a peace officer if the member is acting in aid of civil authorities and in the line of duty or is assisting in the enforcement of drug laws. Under the bill, immunity also would apply if the member were ordered by the Governor to respond to acts or threats of terrorism or to safeguard military or other vital resources of this State or of the United States and were acting in the line of duty. Further, members of organized militia would have the immunity of a peace officer "in this state", under the bill.

The bill also would include in the law enforcement and immunity provisions a member of the organized militia called into "active service" as well as "active state service". Under the Act, "active service" means service, including active State service and special duty required by law, regulation, or pursuant to the Governor's order. Active service includes continuing service of an active member of the National Guard and the defense force in fulfilling that active member's

commission, appointment, or enlistment. "Active state service", as applied to the National Guard and the defense force, means military service in support of civil authorities, at the request of local authorities, including support in the enforcement of drug laws, if ordered by the Governor or as otherwise provided in the Act.

#### Department Director's Duties

The Act provides that the Adjutant General is the military advisor to the Governor and the Director of the Department of Military and Veterans Affairs. The Director's duties include both of the following:

- Maintenance of the personnel records of all active, inactive, retired, or deceased personnel of the State military establishment.
- Liaison in the transaction of official business for the State with the United States and with other states and territories, including those duties devolving upon the Adjutant General under the National Defense Act and other pertinent Federal laws and records.

The bill would add to those duties the development and implementation of plans for the defense of State military personnel, lands, installations, and vital resources.

The bill also specifies that, if the Governor declared military property or any part of military property to be a vital resource of the State, the Adjutant General could limit access to and from property used for military purposes, if necessary for the protection of military personnel, installations, property, or vital resources or if necessary to protect the public health, safety, and welfare of Michigan citizens.

MCL 32.505 et al.

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker