

HOUSE BILL No. 5501

December 12, 2001, Introduced by Reps. Richardville, Koetje, Toy, Julian, Bishop, Caul, Gosselin, Gilbert, Faunce, Meyer, Mead, Van Woerkom, Woronchak, Hummel, Birkholz, Newell, Voorhees, Tabor, Middaugh, Ruth Johnson, Schauer, Ehardt, George, Kowall, Jelinek, Rocca, Neumann, Bernero, Allen, Sheltrown, Callahan, Hager, Pumford, Zelenko, Lockwood, Phillips, Frank, Jacobs, Pestka, Basham, Kuipers, Shackleton, Bisbee, Lipsey, Pappageorge, Shulman, Whitmer, McConico and Cassis and referred to the Committee on Veterans Affairs.

A bill to amend 1967 PA 150, entitled
"Michigan military act,"
by amending sections 105, 179, and 310 (MCL 32.505, 32.579, and
32.710), sections 105 and 179 as amended by 1998 PA 212 and
section 310 as amended by 1990 PA 301, and by adding
section 372a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 105. The definitions used in the command, administra-
2 tion, supply, training, discipline, deployment, and employment of
3 the armed forces of the United States, unless clearly inapplica-
4 ble or contradictory, are adopted with respect to the state mili-
5 tary establishment except as otherwise provided in this act. As
6 used in this act:

7 (a) "Military" means a reference to all components of the
8 state military establishment.

1 (b) "Michigan national guard" means the army national guard
2 and the air national guard.

3 (c) "Commander-in-chief" means the governor of this state.

4 (d) "Active state service", as applied to the national guard
5 and the defense force, means military service in support of civil
6 authorities, at the request of local authorities, including, but
7 not limited to, support in the enforcement of laws prohibiting
8 the importation, sale, delivery, possession, or use of a con-
9 trolled substance, if ordered by the governor or as otherwise
10 provided in this act. As used in this section, "controlled
11 substance" means that term as defined in section 7104 of the
12 public health code, 1978 PA 368, MCL 333.7104.

13 (e) "Special duty" means military service in support of the
14 full-time operation of the state military establishment for a
15 period of not less than 1 day if ordered by competent authority.

16 (f) "Active service" means service, including active state
17 service and special duty required by law, regulation, or pursuant
18 to order of the governor. Active service includes continuing
19 service of an active member of the national guard and the defense
20 force in fulfilling that active member's commission, appointment,
21 or enlistment.

22 (g) "Inactive status" means the status of those members of
23 the national guard who are listed on an inactive list authorized
24 by a federal statute or regulation.

25 (h) "In the service of the United States" and "not in the
26 service of the United States" mean the same as those terms are
27 used and construed under federal laws and regulations.

1 (i) "Officer" means a commissioned officer and a warrant
2 officer, unless a distinction between commissioned officer and
3 warrant officer is clearly evident.

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

7 (k) "Armory" means a building, facility, or the lots and
8 grounds used by an army, navy, or air unit of the organized mili-
9 tia as a home station.

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

13 (M) "VITAL RESOURCE" MEANS A PUBLIC OR PRIVATE BUILDING,
14 FACILITY, PROPERTY, OR LOCATION THAT THE GOVERNOR CONSIDERS NEC-
15 ESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE
16 CITIZENS OF THIS STATE.

17 Sec. 179. (1) No civilian person, except the governor, may
18 command personnel of the state military establishment.

19 (2) If any portion of the organized militia is called into
20 ACTIVE SERVICE, active state service, or ~~into~~ the service of
21 the United States to execute the laws, engage in disaster relief,
22 suppress or prevent actual or threatened riot or insurrection,
23 ~~or~~ repel invasion, RESPOND TO ACTS OR THREATS OF TERRORISM OR
24 SAFEGUARD MILITARY OR OTHER VITAL RESOURCES OF THIS STATE OR OF
25 THE UNITED STATES, or to assist in the enforcement of a law pro-
26 hibiting the importation, sale, delivery, possession, or use of a
27 controlled substance as that term is defined in section 7104 of

1 the public health code, 1978 PA 368, MCL 333.7104, a commanding
2 officer shall use his or her own judgment in apprehending or dis-
3 persing ~~any~~ A sniper, A rioter, a mob, ~~or~~ AN unlawful
4 assembly, OR A PERSON IF REASONABLE GROUNDS EXIST TO BELIEVE THAT
5 HE OR SHE HAS COMMITTED A MISDEMEANOR OR FELONY ON A STATE MILI-
6 TARY BASE, AN ARMORY BASE, AN AIR BASE, OR A VITAL RESOURCE OF
7 THIS STATE OR OF THE UNITED STATES. That commanding officer
8 shall determine the amount and kind of force to be used in pre-
9 serving the peace and carrying out the orders of the governor.
10 Except as provided in subsection (3), that commanding officer's
11 honest and reasonable judgment under the circumstances then
12 existing, in the exercise of his or her duty, is full protection,
13 civilly and criminally, for ~~any~~ AN act done in the line of
14 duty, and a member of the organized militia in ACTIVE SERVICE,
15 active state service, or ~~in~~ the service of the United States is
16 not liable civilly or criminally for ~~any~~ AN act ~~done~~
17 COMMITTED by him or her in the performance of his or her duty.

18 (3) A member of the organized militia in ACTIVE SERVICE,
19 active state service, or ~~in~~ the service of the United States
20 ~~—~~ has the immunity of a peace officer IN THIS STATE if ~~either~~
21 1 OR MORE of the following ~~applies~~ APPLY:

22 (a) The member is acting in aid of civil authorities and
23 acting in the line of duty.

24 (b) The member is assisting in the enforcement of a law pro-
25 hibiting the importation, sale, delivery, possession, or use of a
26 controlled substance as that term is defined in section 7104 of

1 the public health code, 1978 PA 368, MCL 333.7104, and acting in
2 the line of duty.

3 (C) THE MEMBER HAS BEEN ORDERED BY THE GOVERNOR TO RESPOND
4 TO ACTS OR THREATS OF TERRORISM OR TO SAFEGUARD MILITARY OR OTHER
5 VITAL RESOURCES OF THIS STATE OR OF THE UNITED STATES AND IS
6 ACTING IN THE LINE OF DUTY.

7 (4) The attorney general of ~~Michigan~~ THIS STATE shall
8 defend ~~any~~ A civil action or criminal prosecution brought in a
9 state or federal court, against a member of the organized militia
10 or his or her estate, arising from an act or omission alleged to
11 have been committed while in ACTIVE SERVICE, active state
12 service, or ~~in~~ the service of the United States.

13 Sec. 310. The adjutant general is the military advisor to
14 the governor and the director of the department of military AND
15 VETERANS affairs. The adjutant general's office is in Lansing.
16 The adjutant general may publish orders and other directives in
17 the name of the governor and ~~the~~ THIS state to implement and
18 administer the duties and responsibilities outlined in this act.
19 The adjutant general's duties include THE DEVELOPMENT AND IMPLE-
20 MENTATION OF PLANS FOR THE DEFENSE OF STATE MILITARY PERSONNEL,
21 LANDS, INSTALLATIONS, AND VITAL RESOURCES; maintenance of the
22 personnel records of all active, inactive, retired, or deceased
23 personnel of the state military establishment; and liaison in the
24 transaction of official business for this state with the United
25 States and with other states and territories, including those
26 duties devolving upon the adjutant general pursuant to the
27 national defense act and other pertinent federal laws and

1 regulations. The adjutant general shall maintain records of
2 claims for state gratuities for military service rendered by cit-
3 izens of this state and, when authorized by the legislature,
4 shall receive, examine, process, and recommend the payment of
5 gratuities pursuant to law. The adjutant general may use the
6 coat of arms of ~~Michigan~~ THIS STATE with the words added "State
7 of Michigan, Department of Military AND VETERANS Affairs" as the
8 seal of office. All copies of orders, records, and papers certi-
9 fied and authenticated under the seal are equivalent in evidence
10 to the originals.

11 SEC. 372A. THE ADJUTANT GENERAL MAY PROMULGATE RULES PURSU-
12 ANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
13 MCL 24.201 TO 24.328, LIMITING ACCESS TO AND FROM PROPERTY USED
14 FOR MILITARY PURPOSES IF NECESSARY FOR THE PROTECTION OF MILITARY
15 PERSONNEL, INSTALLATIONS, PROPERTY, OR VITAL RESOURCES OR IF NEC-
16 ESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE
17 CITIZENS OF THIS STATE.