

Act No. 133
Public Acts of 2002
Approved by the Governor
March 29, 2002
Filed with the Secretary of State
April 1, 2002
EFFECTIVE DATE: May 1, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

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, Sheltroun, Callahan, Hager, Pumford, Zelenko, Lockwood, Phillips, Frank, Jacobs, Pestka, Basham, Kuipers, Shackleton, Bisbee, Lipsey, Pappageorge, Shulman, Whitmer, McConico and Cassis

ENROLLED HOUSE BILL No. 5501

AN ACT to amend 1967 PA 150, entitled "An act to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, deployment, employment, and retirement; and to repeal certain acts and parts of acts," 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:

Sec. 105. The definitions used in the command, administration, supply, training, discipline, deployment, and employment of the armed forces of the United States, unless clearly inapplicable or contradictory, are adopted with respect to the state military establishment except as otherwise provided in this act. As used in this act:

- (a) "Military" means a reference to all components of the state military establishment.
- (b) "Michigan national guard" means the army national guard and the air national guard.
- (c) "Commander-in-chief" means the governor of this state.

(d) "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, but not limited to, support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, if ordered by the governor or as otherwise provided in this act. As used in this section, "controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

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

(f) "Active service" means service, including active state service and special duty required by law, regulation, or pursuant to order of the governor. 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.

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

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

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

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

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

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

(m) "Vital resource" means a public or private building, facility, property, or location that the governor considers necessary to protect the public health, safety, and welfare of the citizens of this state.

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

(2) If any portion of the organized militia is called into active service, active state service, or the service of the United States to execute the laws, engage in disaster relief, suppress or prevent actual or threatened riot or insurrection, repel invasion, respond to acts or threats of terrorism or safeguard military or other vital resources of this state or of the United States, or to assist in the enforcement of a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as that term is defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, a commanding officer shall use his or her own judgment in apprehending or dispersing a sniper, a rioter, a mob, or an unlawful assembly. In situations described in this subsection, the commanding officer may apprehend a person on a state military base, armory base, air base, or a vital resource of this state or of the United States if the commanding officer has reasonable cause to believe the person has committed a felony or a misdemeanor punishable by imprisonment for more than 92 days on that state military base, armory base, air base, or a vital resource of this state or of the United States. In situations described in this subsection, the commanding officer or an individual under his or her command may apprehend a person on a state military base, armory base, air base, or a vital resource of this state or of the United States if the person commits a crime in the presence of the commanding officer or an individual under his or her command on that state military base, armory base, air base, or a vital resource of this state or of the United States. That commanding officer shall determine the amount and kind of force to be used in preserving the peace and carrying out the orders of the governor. Except as provided in subsection (3), that commanding officer's honest and reasonable judgment under the circumstances then existing, in the exercise of his or her duty, is full protection, civilly and criminally, for an act done in the line of duty, and a member of the organized militia in active service, active state service, or the service of the United States is not liable civilly or criminally for an act committed by him or her in the performance of his or her duty.

(3) A member of the organized militia in active service, active state service, or the service of the United States has the immunity of a peace officer in this state if 1 or more of the following apply:

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

(b) The member is assisting in the enforcement of a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as that term is defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, and acting in the line of duty.

(c) The member has been 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 is acting in the line of duty.

(4) The attorney general of this state shall defend a civil action or criminal prosecution brought in a state or federal court, against a member of the organized militia or his or her estate, arising from an act or omission alleged to have been committed while in active service, active state service, or the service of the United States.

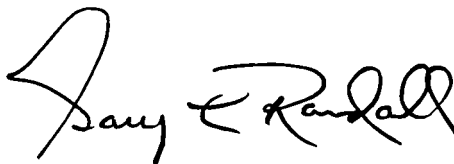
Sec. 310. The adjutant general is the military advisor to the governor and the director of the department of military and veterans affairs. The adjutant general's office is in Lansing. The adjutant general may publish orders and other directives in the name of the governor and this state to implement and administer the duties and responsibilities outlined in this act. The adjutant general's duties include the development and implementation of plans for the defense of state military personnel, lands, installations, and vital resources; maintenance of the personnel records of all active, inactive, retired, or deceased personnel of the state military establishment; and liaison in the transaction of official business for this state with the United States and with other states and territories, including those duties devolving upon the adjutant general pursuant to the national defense act and other pertinent federal laws and regulations. The adjutant general shall maintain records of claims for state gratuities for military service rendered by citizens of this state and, when authorized by the legislature, shall receive, examine, process, and recommend the payment of gratuities pursuant to law. The adjutant general may use the coat of arms of this state with the words added "State of Michigan,

Department of Military and Veterans Affairs” as the seal of office. All copies of orders, records, and papers certified and authenticated under the seal are equivalent in evidence to the originals.

Sec. 372a. If the governor declares military property or any part of military property to be a vital resource of the state, the adjutant general may 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 the citizens of this state.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.