

Act No. 99  
Public Acts of 2013  
Approved by the Governor  
July 2, 2013  
Filed with the Secretary of State  
July 2, 2013  
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**STATE OF MICHIGAN  
97TH LEGISLATURE  
REGULAR SESSION OF 2013**

**Introduced by Senators Pappageorge, Colbeck, Robertson, Brandenburg, Nofs, Moolenaar, Marleau,  
Casperon, Kahn and Green**

# **ENROLLED SENATE BILL No. 175**

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 acts and parts of acts," by amending sections 105, 151, 155, 159, 171, 179, 300, 302, 306, 316, 328, 354, 368, 372, 374, 376, 378, 380, 382, 382a, 384, 388, and 410 (MCL 32.505, 32.551, 32.555, 32.559, 32.571, 32.579, 32.700, 32.702, 32.706, 32.716, 32.728, 32.754, 32.768, 32.772, 32.774, 32.776, 32.778, 32.780, 32.782, 32.782a, 32.784, 32.788, and 32.810), sections 105 and 179 as amended by 2002 PA 133, section 159 as amended by 1998 PA 212, section 302 as amended by 2002 PA 654, section 306 as amended by 2010 PA 255, section 328 as amended by 1988 PA 493, sections 368 and 382 as amended and section 382a as added by 1992 PA 307, and section 410 as amended by 1980 PA 145; and to repeal acts and parts of acts.

*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 state or 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.
- (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 national guard or organized militia as a home station or for military training.

(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.

(n) “Controlled substance” means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

Sec. 151. The governor is the commander-in-chief of the organized militia. He may order to active state service any members of the organized militia in case of riot, tumult, breach of the peace, resistance of process, or for service in aid of civil authority, whether state or federal, or in time of actual or imminent public danger, disaster, crisis, catastrophe or other public emergency within this state or to respond to acts or threats of terrorism or to safeguard military or other vital resources of this state or of the United States. If the governor and his legal successor are absent, disabled, or cannot be communicated with, the adjutant general, if he believes the danger great and imminent, may order out, in the name of the governor, such troops of the organized militia as he believes necessary to meet the emergency.

Sec. 155. The governor may order into the defense force any members of the unorganized militia in case of riot, tumult, breach of the peace, resistance of process, or for service in aid of civil authority, whether state or federal, or in time of actual or imminent public danger, disaster, crisis, catastrophe or other public emergency within this state.

Sec. 159. (1) The governor may enter into an agreement with the governors of 1 or more other states authorizing the military forces of this state, in time of invasion, rebellion, public disaster, or catastrophe, or to assist a state or local law enforcement agency, at the request of that state or local law enforcement agency, in enforcing a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as defined in this act or a similar law of the other state, or as necessary to comply with reciprocal agreements for emergency assistance to other states under the interstate emergency management assistance compact, 2001 PA 248, MCL 3.1001 to 3.1004, or with other similar agreements, to be employed within the area of the other states for mutual assistance in the public interest.

(2) A member of the national guard from another state performing support duty to a federal, state, or local law enforcement agency in this state has the same immunity from liability and prosecution as does a member of the Michigan national guard in performing support duty to a federal, state, or local law enforcement agency.

(3) The Michigan national guard is a law enforcement agency under this act for the purpose of receiving or using property or money forfeited under section 981(e)(2) of title 18 of the United States Code, 18 USC 981, section 616 of part V of title IV of the tariff act of 1930, 19 USC 1616a, and section 511(e)(1)(A) of part E of the controlled substances act, title II of the comprehensive drug abuse prevention and control act of 1970, 21 USC 881.

Sec. 171. The governor may direct the adjutant general to organize, disband, arrange, transfer, convert, alter, consolidate, or attach units of the military establishment. The transfer of personnel to and within units shall be carried out by order of the adjutant general.

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, special duty, active state service, or the service of the United States to execute the laws, engage in emergency or disaster relief or other support operations pursuant to the emergency management act, 1976 PA 390, MCL 30.401 to 30.421, or suppress or prevent actual or threatened riot or insurrection, repel invasion, respond to acts or threats of terrorism, 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, 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, special duty, 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, special duty, 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 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, special duty, active state service, or the service of the United States.

Sec. 300. The office of the adjutant general, with the rank of major general in the national guard, is created. He or she shall be the commanding general of the military establishment. Under the direction of the governor, he or she is charged with the responsibility for the command, administration, logistics, training, and fiscal direction of the military establishment. He or she may perform any act authorized by this chapter or the regulations issued pursuant to this act through or with the aid of such officers, officials, or directors of the military department as he or she may designate. The adjutant general shall direct the planning for the organization and employment of the forces of the organized militia in carrying out their state military mission and establish unified command of state forces whenever they shall be jointly engaged.

Sec. 302. (1) The governor shall appoint the adjutant general from among qualified federally recognized officers of the national guard. The adjutant general shall have served as an officer of field or general grade in the state military establishment for not less than 5 years before appointment and shall have federal recognition in the rank of colonel or higher and shall be capable of being federally recognized to the rank of brigadier general before appointment. The adjutant general shall serve at the pleasure of the governor, and unless sooner relieved, shall serve until the age designated for retirement for an active army or air force officer of like grade. The adjutant general shall receive pay and allowances equal to those of an active army or air force officer of like grade and service. Not later than 10 days after the appointment, the adjutant general shall file his or her constitutional oath of office with the secretary of state.

(2) Only 1 adjutant general appointed by the governor under this section in any 4-year period is eligible for retirement under section 306(2).

Sec. 306. (1) Beginning January 1, 2011, except as otherwise provided in this section, the adjutant general and the assistant adjutants general who began employment on or after January 1, 2011 when relieved under honorable circumstances shall receive retirement benefits as a qualified participant under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69. Retirement benefits will start on the date of retirement or honorable relief from duty. Retirement under this subsection requires not less than 20 years active service with the national guard and/or state defense force.

(2) Beginning on the effective date of the amendatory act that added this subsection and subject to the limitation provided in subsection (5), the adjutant general and the assistant adjutants general when retired or relieved under honorable circumstances shall be placed on the retired list of the national guard. The adjutant general and the assistant adjutants general shall receive retirement pay equal to the retirement pay that an officer of like grade and total years of service would receive as indicated in appropriate federal regulations when they are retired or honorably relieved. Subject to subsection (3), retirement benefits will start on the date of retirement or honorable relief from duty.

(3) Retirement under subsection (2) requires all of the following:

(a) Not less than 20 years active service with the national guard or state defense force, or both.

(b) Not less than 4 consecutive years of special duty as an adjutant general or assistant adjutant general. However, the requirement for serving 4 consecutive years of service as an adjutant general or assistant adjutant general for retirement pay is waived if the service member is relieved due to a new governor assuming office.

(c) The service member is 55 years of age or older.

(4) Any retirement pay received from the federal government for military service shall be deducted when computing the amount to be received from this state for an adjutant general or assistant adjutant general who retires under subsection (2). The deduction shall start on the first day of the month the officer becomes eligible for federal retirement. Once established, the amount of the deduction shall not be changed. The retirement benefit will be paid according to the federal regulations commensurate with active duty years and traditional national guard service time. The full-time adjutant general's and assistant adjutants general's service will be credited at the equivalent of full-time active duty service, and part-time traditional services will be credited to the federal military points system, in a manner as determined by the retirement system.

(5) Only 1 adjutant general appointed by the governor under section 302 in any 4-year period is eligible for retirement under subsection (2). Only 2 assistant adjutants general in any 4-year period are eligible for retirement under subsection (2). However, if the adjutant general or an assistant adjutant general is mobilized pursuant to a federal mobilization and the governor appoints a replacement adjutant general under section 302 or the adjutant general appoints a replacement assistant adjutant general, the replacement adjutant general or replacement assistant adjutant general is eligible for retirement under subsection (2). If any change or error in the records results in any member, retirant, or beneficiary receiving from the retirement system more or less than he or she would have been entitled to receive if the records had been correct, the retirement system shall correct that error and, as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which that member, retirant, or beneficiary was correctly entitled shall be paid.

Sec. 316. The adjutant general shall plan, negotiate, and contract with the federal government for the maintenance, remodeling, additions to, and construction of armories and other military, veterans, or related state facilities within this state. He or she may receive and expend grants from federal sources for these purposes and may enter into agreements with agencies of the federal government for purposes of extending available insurance programs to members and employees of the state military establishment.

Sec. 328. (1) The adjutant general shall request civilian positions and personnel of the military establishment, as he or she considers necessary, to be included in the classified state civil or state senior service. He or she also has the authority to call officers and enlisted personnel, as he or she may designate, to special duty in the military department. Officers and enlisted personnel called to special duty shall receive pay and allowances equal to that of active army or air force personnel of like grade and service.

(2) When special duty personnel receive military pay from the federal government for services performed during the hours of an actual workday, as designated by the adjutant general under section 114, they shall be charged with a day of leave or a day of leave without pay.

Sec. 354. The adjutant general may designate an armory manager for each armory of the state military establishment, with the duty of operating and maintaining the armory pursuant to law and regulations promulgated by the adjutant general. The armory manager may rent or otherwise authorize the use of the armory to outside parties for temporary purposes subject to regulations of the adjutant general.

Sec. 368. The adjutant general may receive from the federal and local governments, corporations, individuals, or other sources, gifts of property and money to aid in providing, erecting, or improving armories or other facilities, or training areas and other surrounding lands throughout this state for the use of the state military establishment. All gifts of money received under this section shall be deposited by the state treasurer in the Michigan national guard armory construction fund created in section 382a and shall be used as provided in that section. When a deed to land has been presented to and accepted by the adjutant general for an armory site and the adjutant general deems it necessary to change the location of the site, the adjutant general may accept a new deed or relinquish the rights of this state in the lands covered by the prior deed without prejudice to the right of priority of the local government to the erection of an armory on the land. The adjutant general has authority to do any act and execute any deeds to carry out the provisions of this act.

Sec. 372. The adjutant general may take title to real property to be used for military purposes in the name of this state.

Sec. 374. The adjutant general may condemn property for armory building sites and military training areas in accordance with the laws of this state.

Sec. 376. The adjutant general may grant easements under and over any state-owned real property under the jurisdiction and control of the state military establishment. An easement shall not be granted for the benefit of a public utility unless the board determines that it is in the public interest and will not adversely affect the use of the property for military purposes.

Sec. 378. When a site is deeded to this state for the erection of an armory, and thereafter any person or local government or combination of local governments wish to deed to this state another site, and the adjutant general after inspection believes that the new site is superior to the old site, the adjutant general may accept the new site after an examination of the title has been made by the attorney general, and deed the old site to the grantor deeding the new site to the state.

Sec. 380. State-owned or leased armories and accessory buildings, military warehouses, arsenals and storage facilities for military equipment, and lands and appurtenances required for the construction of armories or buildings, are not subject to zoning or building ordinances of any local government. The adjutant general shall take cognizance of local zoning ordinances and restrictions in the selection and acceptance of lands for armory or other military buildings and shall conform as nearly as possible to master plans of the local governments where it may be done without impairing the convenience and usefulness of the armories and buildings.

Sec. 382. (1) The adjutant general may dispose of Michigan national guard armories, facilities, or lands under the jurisdiction of the state military establishment if, in the judgment of the adjutant general, the armory, facility, or land is obsolete, inadequate, unusable, or no longer required for Michigan national guard purposes. The disposal shall be by sale for fair market value or by exchange at fair market value for other lands owned by private persons or entities, local units of government, or the federal government.

(2) Disposal of armories, facilities, or land under this section shall be in accordance with policies established by the adjutant general and in accordance with procedures established by the department of technology, management, and budget. Each disposal action also shall be subject to approval by the state administrative board.

(3) Not later than July 31, 1993, and July 31 of each year thereafter, the department of military and veterans affairs shall report to the standing committees of the senate and house of representatives that are responsible for legislation concerning military affairs, and to the senate and house appropriations committees, as to the actions taken by the department under this section during the preceding reporting period.

Sec. 382a. (1) The Michigan national guard armory construction fund is created as a separate fund in the state treasury. All money received as gifts under section 368 or from sales, transfers, or exchanges under section 382 shall be deposited by the state treasurer in the Michigan national guard construction fund. Money in the fund shall not revert to the general fund at the close of the fiscal year but shall remain in the fund.

(2) Money in the Michigan national guard construction fund shall be expended by the state treasurer at the exclusive direction of the adjutant general for the purpose of acquiring facilities and training lands and constructing new facilities. Each expenditure from the fund shall be subject to appropriation by the legislature. The unexpended portion of the fund shall be invested by the state treasurer and the earnings on the fund shall be credited to the fund at the state treasurer's common cash investment income rate.

Sec. 384. The adjutant general shall hold title to the camp Grayling military reservation under the terms of the deed from the Hanson estate and in accordance with the provisions of 1913 PA 172, MCL 32.221 to 32.226.

Sec. 388. The department of natural resources shall transfer to the adjutant general such lands under its control as competent authority shall direct. These lands shall form a part of the camp Grayling military reservation and shall be supervised and controlled by the adjutant general, except that hunting shall not be prohibited on the lands. The adjutant general may with approval of the legislature exchange or sell any lands transferred to it under this act in order to obtain any other lands, oil and mineral rights excepted, whether owned by private interests or by the United States government, within the external boundaries of the camp Grayling military reservation as enlarged by this act, and may make all necessary conveyances to effect the exchanges and sales.

Sec. 410. (1) For purposes of this section, "eligible surviving spouse" means the person to whom the deceased officer or enlisted person was married preceding the death of the officer or enlisted person, or to whom the deceased retired officer or retired enlisted person was married at the time of retirement.

(2) An adjutant general or assistant adjutant general who retires or is relieved due to a new governor assuming office will receive pay and benefits as defined by section 306.

(3) If an adjutant general or assistant adjutant general who continues on special duty on or after the date the officer acquires 15 years of active service dies before retirement as provided in section 306 and subsection (2) and leaves an eligible surviving spouse, the eligible surviving spouse shall be paid a survivor's benefit equal to 67% of the retired pay to which the officer would have been authorized had the officer retired the day preceding death.

(4) If an adjutant general or assistant adjutant general who retires is receiving retirement pay as provided in section 306 and subsection (2) dies and leaves an eligible surviving spouse, the eligible surviving spouse shall begin receiving 50% of the retirement pay of the officer.

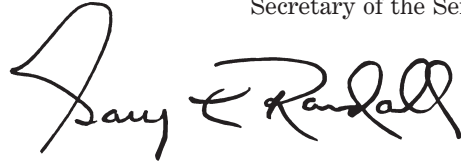
(5) Officers, other than the adjutant general and assistant adjutants general, who are appointed to state special duty prior to July 1, 2013 because of having reached the maximum age or because of federal law or regulation and retire shall receive retirement pay as provided in section 306. Retirement under this section requires not less than 20 years' active service with the national guard or state defense force, or both. Any retirement pay received from the federal government for military service shall be deducted when computing the amount received from this state. The deduction shall start on the first day of the month the person becomes eligible for federal retirement. Once established, the amount of the deduction shall not be changed.

Enacting section 1. Sections 133, 360, 362, 364, 366, and 390 of the Michigan military act, 1967 PA 150, MCL 32.533, 32.760, 32.762, 32.764, 32.766, and 32.790, are repealed.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor