

HB 152 -- Redline

HB0152B to HB0152C -- An Act relating to the organized militia; and relating to the authority of the adjutant general.

Deletions ~~struck~~ · Insertions underlined

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152(MLV)152(STA) 01 "An Act relating to the organized militia;

~~AS 26.05.070 is amended to read:~~

~~00 Sec.~~

~~26.05.070.~~

~~Orders for [GOVERNOR MAY ORDER] organized 10 militia into active state service.~~

~~In the event of war, disaster, insurrection, rebellion, 11 tumult, catastrophe, wildland fire, invasion, or riot;~~

~~or if a mob or body of men act 12 together by force with intent to commit a felony or to offer violence to persons or 13 property, or by force and violence to break and resist the laws of the state, or the 14 United States;~~

~~or in the case of imminent danger of the occurrence of any of these 15 events;~~

~~or whenever responsible civil authorities fail to preserve law and order, or 16 protect life and property, or the governor believes that failure is imminent, the 17 governor may order the organized militia or any part of it, into active state service to 18 execute the laws and to perform duties in connection with them that the governor 19 considers proper.~~

~~Whenever any portion of the militia is ordered into active state 20 service by the governor, it becomes an additional police force, retaining its separate 21 entity and operating at all times as a military organization under military command, 22 with power to cooperate with but not to supersede the existing civilian law 23 enforcement officers whenever possible, for the re-establishment of law and order and 24 for the protection of life and property.~~

~~The governor may also order members of the 25 organized militia to active state service, with their consent, for the purpose of training 26 or for full-time duty with the office of the adjutant general.~~

~~[IN THE EVENT OF 27 WILDLAND FIRE, THE GOVERNOR MAY DELEGATE TO THE ADJUTANT 28 GENERAL THE GOVERNOR'S AUTHORITY UNDER THIS SECTION TO 29 ORDER SOME OR ALL OF THE ORGANIZED MILITIA INTO ACTIVE STATE 30 SERVICE TO FIGHT WILDLAND FIRE.~~

~~IN THIS SECTION, "WILDLAND FIRE" 31 INCLUDES THE UNCONTROLLED BURNING OF GRASS, BRUSH, TIMBER, AND OTHER VEGETATIVE MATERIAL.] 02 * Sec.~~

~~3.~~

~~0309 (b) InThe the event of wildland fire, earthquake, flooding, or other natural 04 catastrophe, or under imminently serious conditions where time or circumstance does 05 not permit approval from the governor, the adjutant general may provide an immediate 06 response by temporarily ordering members of the organized militia into07may active08not statebe 07used service09against or otherwise employing the resources under its control, subject to anymitigate 08a supplemental09lawful direction10 byactivity, theincluding governor,an toorganized save09labor lives,activity. prevent human suffering, or 09 mitigate great property damage in the state.~~

~~1011 (c) NotwithstandingThe (b) of this section, the adjutant general may not order anymembers 11 part of the organized militia into12to active 12 state serviceservice, forwith actions09their thatconsent, wouldfor subjectfull-time 12duty civilianswith to the useoffice of militarythe poweradjutant that is regulatory, prescriptive, proscriptive, or 13 compulsory,general. unless approved by the governor before giving the order.~~

~~14 (d)* TheSec. adjutant general shall make reasonable and continuous efforts to 15 contact the governor for approval of any orders issued under this section.~~

~~163. (e) If the adjutant general exercises the authority under (b) of this section, but 17 does not receive the governor's approval under (d) of this section, the adjutant general 18 shall reassess~~

~~whether there remains a continued need for an organized militia 19 response as soon as practicable, but not later than 72 hours after the order under (b) of 20 this section was given.~~

~~21 (f) The organized militia may not be used against or to mitigate a lawful 22 activity, including an organized labor activity.~~

~~23 (g) No part of the organized militia in active state service may leave the state 24 with arms or equipment of the state without the consent of the governor.~~

~~25 (h) The adjutant general may order members of the organized militia to active 26 state service, with their consent, for full-time duty with the office of the adjutant 27 general.~~

~~28 (i) In this section, "wildland fire" includes the uncontrolled burning of grass, 29 brush, timber, and other vegetative material.~~

~~30 * Sec.~~

~~4-~~

~~31~~15 Sec.

Whenever any portion of the 16 militia is ordered to duty by the governor, the decision of the governor in this matter is 0217 final.

Whenever any portion of the militia is ordered to duty by the adjutant 0318 general, the decision is subject to review by the governor.

0419 * Sec.

~~5-~~4.

0520 Sec.

With the consent of the United 0621 States Congress, a [A] state militia, known as the Alaska State Defense Force, may 0722 be organized through voluntary enlistments under regulations as to commission, 0823 enlistment, administration, equipment, maintenance, discipline, and training that 0924 may be prescribed by the adjutant general under AS 26.05.060 and 26.05.360 1025 [GOVERNOR].

During the time that the Alaska National Guard or the Alaska Naval 1126 Militia, or any part of either of them, is not available to the state by reason of active 1227 federal service, or the National Guard or Naval Militia requires augmentation to 1328 perform its state mission, the governor may activate the Alaska State Defense Force.

1429 Members of the Alaska State Defense Force performing inactive duty or training 1530 or community service duties shall receive benefits under AS 26.05.260 if the 1631 member suffers an injury, disability, or death while in the line of duty.

~~17-~~ * Sec.

~~6-~~5.

1802 (a) [THE ADJUTANT GENERAL SHALL ADOPT AND PUBLISH 1903 ORDERS AND REGULATIONS NOT CONTRARY TO LAW THAT IN THE 2004 ADJUTANT GENERAL'S JUDGMENT ARE NECESSARY TO BRING THE 2105 ORGANIZATIONS, ARMAMENT, EQUIPMENT, AND DISCIPLINE OF THE 2206 ORGANIZED MILITIA TO A HIGH DEGREE OF EFFICIENCY.] The adjutant 2307 general shall perform all the administrative functions incident to the operation of the 2408 Alaska National Guard, the Alaska State Defense Force, and the Alaska Naval 2509 Militia.

In addition, the adjutant general shall have an inventory taken at least once 2610 each year of all state military stores, property, and funds under the jurisdiction of the 2711 adjutant general.

2812 * Sec.

~~7-~~6.

2913 Sec.

Adjutant general and assistant adjutant general duty 3014 status.

The adjutant general and assistant adjutants general are subject to regulations 3115 under this chapter and paid according to state law.

16 * Sec.

~~8-~~7.

0217 (b) When federal recognition of an officer's commission or warrant has been 0318 withdrawn, the officer's state appointment as a commissioned or warrant officer may 0419 be terminated, and the commission or warrant vacated upon [THE 0520 RECOMMENDATION OF THE ADJUTANT GENERAL AND] approval of the 0621 adjutant general [GOVERNOR].

0722 * Sec.

~~9-~~8.

0823 (d) Commissioned or warrant officers may tender their resignations through 0924 National Guard or Naval Militia command channels.

Resignations shall be in writing, 1025 stating the reason for resignation, and shall take effect when accepted by the adjutant 1126 general [UPON THE APPROVAL OF THE GOVERNOR].

1227 * Sec.

~~10-9.~~

~~1328~~ Sec.

A commissioned officer and enlisted person upon ~~1429~~ reaching the maximum age prescribed for active duty by appropriate regulations and a ~~1530~~ commissioned officer or enlisted person who is disabled or incapacitated for active ~~1631~~ duty through no personal fault or dereliction, and a commissioned officer or enlisted ~~17~~ person who serves honorably with the Alaska National Guard or with the Alaska ~~1802~~ Naval Militia in any capacity and is unable to perform further active duty due to ~~1903~~ limitations imposed by appropriate regulations may be placed ~~upon~~ UPON the retired ~~04~~ list ~~20~~ upon recommendation by the adjutant general [AND APPROVAL OF THE ~~2105~~ GOVERNOR].

~~2206~~ * Sec.

~~11-10.~~

~~2307~~ (b) The armory of each battalion, company, or other unit is subject to the order ~~2408~~ of the adjutant general and under the charge of its armory board which shall keep in ~~2509~~ the armory all property furnished by the state.

[EXCEPT FOR SCOUT ~~2610~~ BATTALIONS ORGANIZED UNDER SPECIAL AUTHORITY OF THE ~~2711~~ SECRETARY OF THE ARMY, A UNIT MAY NOT BE FURNISHED WITH ~~2812~~ ARMS OR EQUIPMENT UNTIL A SUITABLE ARMORY IS PROVIDED FOR ~~2913~~ THEIR DEPOSIT.] Subject to regulations adopted by the adjutant general, an armory ~~3014~~ may be used for any reasonable and legitimate civilian activity so long as the activity ~~3115~~ does not interfere with its use for military purposes.

[PROCEEDS RECEIVED AS ~~16~~ RENTAL OR OTHERWISE AT AN ARMORY FROM NONMILITARY USE ~~0217~~ SHALL BE DEPOSITED IN THE GENERAL FUND.] ~~0318~~ * Sec.

~~12-11.~~

~~0419~~ (a) To the extent funds are available, the adjutant general may authorize the ~~0520~~ payment of up to 100 percent of the cost of tuition and required fees for each active ~~0621~~ member of the Alaska National Guard, the Alaska State Defense Force, or the ~~0722~~ Alaska Naval Militia if the member attends an educational, vocational, or technical ~~0823~~ training school in this state.

The adjutant general may prioritize categories of ~~0924~~ education benefits to encourage recruitment and retention of Alaska National Guard, ~~1025~~ Alaska State Defense Force, or Alaska Naval Militia members.

Payments ~~1126~~ authorized under this section for active members of the Alaska National Guard, the ~~1227~~ Alaska State Defense Force, or the Alaska Naval Militia continue so long as the ~~1328~~ active member is a student in good standing in the educational program or class and ~~1429~~ participates satisfactorily in unit training activities.

~~1530~~ * Sec.

~~13-12.~~

~~1631~~ (b) The regulations adopted under this section must ~~17~~ (1) provide for nonjudicial punishment; the regulations for nonjudicial ~~1802~~ punishment may not provide for confinement or separation from military service or ~~1903~~ prohibit a member of the militia from declining the imposition of nonjudicial ~~2004~~ punishment in favor of a court-martial;

~~2105~~ (2) as the adjutant general and the governor consider practicable, apply ~~2206~~ the principles of law and the rules of evidence and procedure governing military ~~2307~~ criminal cases in the courts of the armed forces of the United States, but may not be ~~2408~~ contrary to or inconsistent with this chapter or the applicable Alaska Rules of ~~2509~~ Evidence;

~~2610~~ (3) include rules of pretrial, trial, and post-trial procedure, including ~~2711~~ methods of proof, for cases before courts-martial and courts of inquiry;

~~2812~~ (4) not be contrary to federal law or regulations.

~~2913~~ * Sec.

~~14-13.~~

~~3014~~ (e) The regulations adopted under this section must conform as nearly as ~~3115~~ practicable to regulations governing the armed forces of the United States.

~~16~~ * Sec.

~~15-14.~~

~~0217~~ Sec.

The governor may delegate any ~~0318~~ authority vested in the governor under the code of military justice, and provide for the ~~0419~~ subdelegation of the authority, except the powers given to the governor by ~~0520~~ AS 26.05.450 [AS 26.05.170 AND 26.05.450].

~~0621~~ * Sec.

~~16-15.~~

AS 26.05.170, 26.05.235, 26.05.340(a), ~~26.05.340(b)~~, and 26.05.340(d) are ~~07~~ repealed.