

1998 PUBLIC AND LOCAL ACTS

[No. 212]

(HB 4860)

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, employment and retirement, and to repeal certain acts and parts of acts," by amending the title and sections 105, 159, and 179 (MCL 32.505, 32.559, and 32.579).

The People of the State of Michigan enact:

TITLE

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.

32.505 Michigan military act; definitions. [M.S.A. 4.678(105)]

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.

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(j) "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.

32.559 Mutual military assistance agreement with other states.

[M.S.A. 4.678(159)]

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 that term is defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or as defined in a similar law of the other state, 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 solely 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 U.S.C. 981, section 616 of part V of title IV of the tariff act of 1930, chapter 497, 98 Stat. 2987, 19 U.S.C. 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, Public Law 91-513, 21 U.S.C. 881.

32.579 Command of state military personnel; militia on active service; duties, liabilities, and immunities from civil and criminal prosecutions. [M.S.A. 4.678(179)]

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 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 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 any sniper, rioter, a mob, or unlawful assembly. 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 any act done in the line of duty, and a member of the organized militia in active state service or in the service of the United States is not liable civilly or criminally for any act done by him or her in the performance of his or her duty.

(3) 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 either of the following applies:

(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.

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(4) The attorney general of Michigan shall defend any 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 state service or in the service of the United States.

This act is ordered to take immediate effect.

Approved July 1, 1998.

Filed with Secretary of State July 1, 1998.
