

HOUSE BILL 401

E4

3lr0110

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Military)**

Introduced and read first time: January 28, 2013

Assigned to: Health and Government Operations

Committee Report: Favorable

House action: Adopted with floor amendments

Read second time: February 21, 2013

CHAPTER _____

1 AN ACT concerning

2 **Military Department – Powers of the Adjutant General – Summary**
3 **Courts–Martial**

4 FOR the purpose of authorizing the Adjutant General to adopt certain rules and
5 regulations; requiring certain rules and regulations to conform to a certain code
6 and certain rules, regulations, and statutes; providing that when certain rules
7 and regulations have been adopted and published by the Adjutant General, they
8 shall have the force and effect of law and constitute a lawful order; providing
9 that adoption and publication of rules and regulations by the Adjutant General
10 are exempt from the requirements of the Administrative Procedure Act; altering
11 the procedures for and penalties that may be imposed by summary
12 courts–martial for the organized militia; and generally relating to powers of the
13 Adjutant General and summary courts–martial.

14 BY repealing and reenacting, with amendments,
15 Article – Public Safety
16 Section 13–302 and 13–812
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2012 Supplement)

19 BY repealing
20 Article – Public Safety
21 Section 13–808
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2011 Replacement Volume and 2012 Supplement)

2 BY adding to

3 Article – Public Safety

4 Section 13–808 and 13–808.1

5 Annotated Code of Maryland

6 (2011 Replacement Volume and 2012 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – State Government

9 Section 10–102

10 Annotated Code of Maryland

11 (2009 Replacement Volume and 2012 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Public Safety**

15 13–302.

16 (a) (1) The Adjutant General may appoint:

17 (i) a chief of State operations;

18 (ii) an executive officer;

19 (iii) an administrative officer;

20 (iv) the directors of military installations, procurement, military
21 support to civil authorities, State personnel, finance, and veterans affairs;

22 (v) the site managers for military reservations; and

23 (vi) a grants administrator.

24 (2) The executive officer and directors appointed under paragraph (1)
25 of this subsection serve at the pleasure of the Adjutant General.

26 (b) (1) The Adjutant General shall keep all records required to be kept
27 and filed with the Adjutant General’s office.

28 (2) On or before each October 15, the Adjutant General shall submit to
29 the Governor a detailed statement of all the receipts and expenditures for military
30 purposes during the year ending the previous September 30.

1 (c) (1) On request, the Adjutant General or the Adjutant General's
2 designee shall assist the spouse of a member of the military who resides in the State
3 or is transferred to the State in finding employment in the State.

4 (2) The assistance provided under paragraph (1) of this subsection
5 may include providing:

6 (i) the informational form developed by the State Department
7 of Education under § 6–201.1 of the Education Article;

8 (ii) information relating to health occupations in the State that
9 permit reciprocal licensure; and

10 (iii) information relating to business occupations in the State
11 that permit reciprocal licensure.

12 (d) (1) The Adjutant General is responsible for:

13 (i) each armory that the State owns; and

14 (ii) each building or other property purchased, occupied, or
15 leased by or on behalf of the State military forces.

16 (2) If the Adjutant General rejects an application to use an armory for
17 nonmilitary purposes, the application is subject to review and approval by the Board of
18 Public Works, the Adjutant General, and the commanding officer of the unit occupying
19 that armory.

20 (3) The Adjutant General may adopt regulations to enforce this
21 subsection.

22 (e) The Adjutant General is the custodian of battle flags and war records and
23 is responsible for their proper care and preservation.

24 (f) The Adjutant General may employ employees as required.

25 (g) The Adjutant General shall carry out the Governor's policies concerning
26 matters specified in this title and Title 14, Subtitles 1, 2, and 4 of this article.

27 (h) The seal of the Adjutant General's office shall be delivered by the
28 Adjutant General to the Adjutant General's successor.

29 **(I) (1) THE ADJUTANT GENERAL MAY ADOPT RULES AND**
30 **REGULATIONS TO GOVERN, DISCIPLINE, AND ESTABLISH CRITERIA FOR THE**
31 **PERFORMANCE OF DUTIES OF THE ORGANIZED MILITIA OF THE STATE, AS**
32 **DEFINED IN § 13–203 OF THIS TITLE.**

1 **(2) THE RULES AND REGULATIONS SHALL, TO THE EXTENT**
2 **PRACTICABLE, CONFORM TO THE UNIFORM CODE OF MILITARY JUSTICE**
3 **(UCMJ) AND TO THE RULES, REGULATIONS, AND STATUTES OF THE**
4 **DEPARTMENT OF DEFENSE, THE ARMY, THE AIR FORCE, AND THE NATIONAL**
5 **GUARD BUREAU OF THE UNITED STATES.**

6 **(3) WHEN THE RULES AND REGULATIONS HAVE BEEN ADOPTED**
7 **AND PUBLISHED BY THE ADJUTANT GENERAL, THEY SHALL HAVE THE FORCE**
8 **AND EFFECT OF LAW AND CONSTITUTE A LAWFUL ORDER.**

9 **(4) ADOPTION AND PUBLICATION OF RULES AND REGULATIONS**
10 **UNDER PARAGRAPH (3) OF THIS SUBSECTION ARE EXEMPT FROM THE**
11 **REQUIREMENTS OF TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT**
12 **ARTICLE.**

13 **[13-808.**

14 (a) (1) The commanding officer of a garrison, fort, post or other place,
15 regiment or corps, detached battalion, company, or other detachment may appoint for
16 that command or place a summary court-martial.

17 (2) A summary court-martial shall consist of one officer.

18 (b) A summary court officer may:

19 (1) try an enlisted individual of the summary court-martial's place or
20 command for a breach of discipline or violation of law governing the place or command;
21 and

22 (2) administer an oath.

23 (c) (1) The proceedings of a summary court-martial shall be informal.

24 (2) The minutes of a summary court-martial shall be the same as
25 prescribed for the minutes for a summary court of the United States Army or Air
26 Force.]

27 **13-808.**

28 **(A) ENLISTED SOLDIERS AND NONCOMMISSIONED OFFICERS OF THE**
29 **ORGANIZED MILITIA MAY BE SUBJECTED TO SUMMARY COURT-MARTIAL IN**
30 **ACCORDANCE WITH THE PROCEDURES AND PENALTIES ADOPTED BY THE**
31 **ADJUTANT GENERAL UNDER § 13-302 OF THIS TITLE.**

1 **(B) CONVICTION BY A SUMMARY COURT-MARTIAL DOES NOT**
2 **CONSTITUTE A CONVICTION FOR THE PURPOSE OF ANY DISQUALIFICATION OR**
3 **DISABILITY IMPOSED BY LAW BECAUSE OF CONVICTION OF A CRIME.**

4 **13-808.1.**

5 **ALL MEMBERS OF THE ORGANIZED MILITIA MAY BE SUBJECTED TO**
6 **NONJUDICIAL PUNISHMENT IN ACCORDANCE WITH THE PROCEDURES AND**
7 **PENALTIES ADOPTED BY THE ADJUTANT GENERAL UNDER § 13-302 OF THIS**
8 **TITLE.**

9 13-812.

10 (a) A general court-martial may impose one or more of the following
11 penalties:

12 (1) [except as provided in subsection (d) of this section,] a fine not
13 exceeding \$200;

14 (2) forfeiture of pay and allowances;

15 (3) reprimand;

16 (4) dismissal or dishonorable discharge from the service;

17 (5) reduction of noncommissioned officers to the ranks; or

18 (6) confinement, in lieu of a fine, not to exceed 1 day for each dollar of
19 fine authorized.

20 (b) (1) Except as provided in paragraph (2) of this subsection, a special
21 court-martial may impose the penalties listed in subsection (a) of this section.

22 (2) A special court-martial may not impose a fine exceeding \$100.

23 [(c) A summary court-martial may impose the following penalties:

24 (1) a fine not exceeding \$25 for a single offense;

25 (2) reduction of noncommissioned officer to the ranks;

26 (3) forfeiture of pay and allowances; or

27 (4) confinement, in lieu of a fine, not to exceed 1 day for each dollar of
28 fine authorized.]

1 **(C) A SUMMARY COURT-MARTIAL MAY IMPOSE A SENTENCE THAT**
2 **INCLUDES:**

3 **(1) A FINE OF NOT MORE THAN THE MEMBER'S PAY AND**
4 **ALLOWANCES FOR FOUR UNIT TRAINING ASSEMBLIES;**

5 **(2) A FORFEITURE OF UP TO TWO-THIRDS OF THE MEMBER'S PAY**
6 **AND ALLOWANCES FOR UP TO FOUR UNIT TRAINING ASSEMBLIES;**

7 **(3) REDUCTION IN RANK IN THE FOLLOWING MANNER:**

8 **(I) FOR ENLISTED PERSONNEL IN THE GRADE OF E5 AND**
9 **ABOVE, TO THE NEXT INFERIOR PAY GRADE; OR**

10 **(II) FOR ENLISTED PERSONNEL IN THE GRADE OF E4 AND**
11 **BELOW, TO THE LOWEST ENLISTED GRADE; OR**

12 **(4) FOR MEMBERS IN THE RANK OF E4 AND BELOW ONLY,**
13 **CONFINEMENT FOR A PERIOD NOT TO EXCEED 30 DAYS.**

14 (d) [An enlisted individual convicted of an offense listed in § 13-803 of this
15 subtitle is subject to a fine not exceeding \$100.

16 (e)] A sentence of dismissal from the service or dishonorable discharge
17 imposed by a court-martial may not be executed until approved by the Governor.

18 **Article – State Government**

19 10-102.

20 (a) Except as otherwise expressly provided by law, this subtitle applies to:

21 (1) each unit in the Executive Branch of the State government; and

22 (2) each unit that:

23 (i) is created by public general law; and

24 (ii) operates in at least 2 counties.

25 (b) This subtitle does not apply to:

26 (1) a unit in the Legislative Branch of the State government;

27 (2) a unit in the Judicial Branch of the State government;

- 1 (3) the Injured Workers' Insurance Fund;
- 2 (4) a board of license commissioners; [or]
- 3 (5) the Rural Maryland Council; **OR**
- 4 **(6) THE MILITARY DEPARTMENT.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.