

HOUSE BILL 1473

P1

9lr0160

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

Introduced and read first time: March 2, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Health and Government Operations, March 9, 2009

Committee Report: Favorable

House action: Adopted

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Military Department – Classification, Organization, and Authority**

3 FOR the purpose of altering the application of certain provisions specifically applicable
4 to organized militia and the Maryland Defense Force; correcting the wording of
5 the oath of office for commissioned officers of the National Guard; clarifying the
6 status, roles, and missions of the Maryland Defense Force; clarifying that,
7 although the Governor is commander-in-chief of the Maryland Defense Force,
8 the Adjutant General maintains operational control over it and appoints its
9 commander; prohibiting the Maryland Defense Force or a member of the
10 Maryland Defense Force from accepting certain gifts and other things of value
11 under certain circumstances; and generally relating to the Military Department.

12 BY renumbering

13 Article – Public Safety
14 Section 13–702(e)
15 to be Section 13–409
16 Annotated Code of Maryland
17 (2003 Volume and 2008 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Public Safety
20 Section 13–409 and 13–702
21 Annotated Code of Maryland
22 (2003 Volume and 2008 Supplement)

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 (As enacted by Section 1 of this Act)

2 BY repealing and reenacting, with amendments,

3 Article – Public Safety

4 Section 13–501, 13–502, 13–503, 13–504, 13–506, 13–508, 13–601, 13–602,

5 13–604, 13–605, 13–607, 13–608, 13–703, 13–704, and 13–708

6 Annotated Code of Maryland

7 (2003 Volume and 2008 Supplement)

8 BY adding to

9 Article – Public Safety

10 Section 13–509

11 Annotated Code of Maryland

12 (2003 Volume and 2008 Supplement)

13 BY repealing

14 Article – Public Safety

15 Section 13–603 and 13–606

16 Annotated Code of Maryland

17 (2003 Volume and 2008 Supplement)

18 BY renumbering

19 Article – Public Safety

20 Section 13–705 through 13–708, respectively

21 to be Section 13–704 through 13–707, respectively

22 Annotated Code of Maryland

23 (2003 Volume and 2008 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That Section(s) 13–702(e) of Article – Public Safety of the Annotated
26 Code of Maryland be renumbered to be Section(s) 13–409.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
28 read as follows:

29 **Article – Public Safety**

30 **[13–704.] 13–406.**

31 (a) This section:

32 (1) applies when the [organized militia] **NATIONAL GUARD** is
33 ordered out for State active duty or training by the Governor or by the Governor’s
34 authority; and

1 (2) does not apply to the [organized militia] **NATIONAL GUARD** when
2 ordered to duty incident to an order into the active military service of the United
3 States.

4 (b) Subject to subsection (d) of this section:

5 (1) an officer, warrant officer, and enlisted individual shall receive the
6 same pay, including longevity pay, subsistence, per diem, and allowances, as an
7 officer, warrant officer, and enlisted individual of like grade and length of service in
8 the United States Army or Air Force; and

9 (2) an individual ordered to active duty other than for training shall
10 be paid a daily rate of at least 12 times the hourly federal minimum wage in effect at
11 the time of active duty.

12 (c) An enlisted individual who meets the qualifications that the Governor
13 sets in small arms practice or for proficiency in the various duties of the branch or arm
14 to which the individual belongs shall receive the following increase in pay of the
15 individual's grade for 1 year beginning on the first January 1 after qualification:

16 (1) experts – 20%;

17 (2) sharpshooters, gunners, drivers, and medical, first class – 15%;
18 and

19 (3) marksmen, gunners, drivers, and medical, second class – 10%.

20 (d) On the recommendation of the Adjutant General, the Governor may
21 reduce the rates of pay, including longevity pay and qualification pay under
22 subsections (b) and (c) of this section.

23 [13-602.] **13-407.**

24 A commissioned officer of the [organized militia] **NATIONAL GUARD** shall take
25 the following oath of office:

26 "I,, do solemnly swear that I will support and defend the Constitution
27 of the United States and the Constitution of the State of Maryland, against all
28 enemies, foreign and domestic; that I will bear true faith and allegiance to the same;
29 that I will obey the orders of the President of the United States and of the Governor of
30 the State of Maryland; that I [make] **TAKE** this obligation freely, without any mental
31 reservation or purpose of evasion, and that I will well and faithfully discharge the
32 duties of the office of in the National Guard of the United States and of the
33 State of Maryland upon which I am about to enter, so help me God."

34 [13-604.] **13-408.**

1 An officer **OF THE NATIONAL GUARD** shall take rank from the date that the
2 officer was commissioned and in the manner the United States Department of Defense
3 provides by regulation.

4 13-409.

5 [(1)] (A) Any individual who is ordered into active duty for the
6 National Guard in response to the foreign terrorist attacks in the United States on
7 September 11, 2001, shall receive a service bar in recognition of this service.

8 [(2)] (B) The service bar shall depict the State flag and “9-11”.

9 13-501.

10 (a) (1) [The Governor may organize and maintain in the State a Maryland
11 Defense Force] **THERE IS ESTABLISHED IN THE STATE A MARYLAND DEFENSE**
12 **FORCE WITHIN THE MILITARY DEPARTMENT.**

13 (2) [The Governor may disband or reduce the size of the Maryland
14 Defense Force at any time] **THE GOVERNOR IS THE COMMANDER-IN-CHIEF OF**
15 **THE MARYLAND DEFENSE FORCE.**

16 (3) **THE MARYLAND DEFENSE FORCE IS UNDER THE**
17 **OPERATIONAL CONTROL OF THE ADJUTANT GENERAL.**

18 (4) **THERE IS A COMMANDING GENERAL OF THE MARYLAND**
19 **DEFENSE FORCE WHO IS APPOINTED BY THE ADJUTANT GENERAL AND SERVES**
20 **AS SUCH AT THE PLEASURE OF THE ADJUTANT GENERAL.**

21 (b) The Maryland Defense Force is **A COMPONENT OF THE ORGANIZED**
22 **MILITIA OF THE STATE** in addition to and separate from the National Guard.

23 (c) **THE MARYLAND DEFENSE FORCE SHALL HAVE THE PRIMARY**
24 **MISSION OF PROVIDING COMPETENT AND SUPPLEMENTAL PROFESSIONAL,**
25 **TECHNICAL, AND MILITARY SUPPORT TO THE MARYLAND ARMY NATIONAL**
26 **GUARD, THE MARYLAND AIR NATIONAL GUARD, AND THE MARYLAND**
27 **EMERGENCY MANAGEMENT AGENCY. THE MARYLAND DEFENSE FORCE SHALL**
28 **ALSO HAVE OTHER DUTIES AND MISSIONS AS IT MAY BE ASSIGNED FROM TIME**
29 **TO TIME BY COMPETENT AUTHORITY.**

30 13-502.

31 (a) (1) The Governor may adopt regulations to carry out this title
32 governing the enlistment, organization, administration, equipment, maintenance,
33 training, and discipline of the Maryland Defense Force.

1 (2) The Governor may prescribe a uniform for the Maryland Defense
2 Force.

3 (b) As [the Governor considers] **IS** practicable and desirable, regulations
4 adopted under this section shall conform to [existing] **APPLICABLE** law and
5 regulations that govern the National Guard, **EXCEPT THOSE LAWS AND**
6 **REGULATIONS THAT APPLY TO THE NATIONAL GUARD WHEN ACTING SOLELY**
7 **UNDER TITLE 10 OF THE UNITED STATES CODE.**

8 (c) **(1)** The regulations shall prohibit the Maryland Defense Force or a
9 member of the Maryland Defense Force from accepting gifts, donations, gratuities, or
10 anything of value from a person [in connection with the member's service] in
11 **EXCHANGE FOR SPECIFIC AND ISOLATED SERVICES RENDERED BY** the Maryland
12 Defense Force.

13 **(2)** **THIS PROVISION MAY NOT BE INTERPRETED OTHERWISE TO**
14 **PROHIBIT GIFTS, BEQUESTS, AND THE LIKE FROM ANY INDIVIDUAL OR**
15 **ORGANIZATION TO THE MARYLAND DEFENSE FORCE OR ANY FOUNDATION OR**
16 **THE LIKE ESTABLISHED TO SUPPORT ITS ACTIVITIES.**

17 13-503.

18 (a) The Maryland Defense Force consists of:

19 (1) commissioned or assigned officers; and

20 (2) [able-bodied citizens of the State] **QUALIFIED INDIVIDUALS** who
21 volunteer to serve **AND ARE COMMISSIONED, APPOINTED, OR ENLISTED IN THE**
22 **MARYLAND DEFENSE FORCE.**

23 (b) An individual may not be commissioned or enlisted in the Maryland
24 Defense Force if the individual:

25 (1) is not a citizen of the United States; [or]

26 (2) [has been expelled or dishonorably discharged from a military or
27 naval organization of this State or another state or from the United States armed
28 forces.] **HAS BEEN DISMISSED FROM OR RECEIVED A BAD CONDUCT DISCHARGE**
29 **OR A DISHONORABLE DISCHARGE, OR ANY DISCHARGE OTHER THAN UNDER**
30 **HONORABLE CONDITIONS, FROM A MILITARY OR NAVAL ORGANIZATION OF THIS**
31 **STATE OR OF ANOTHER STATE, OR FROM ANY OF THE UNITED STATES ARMED**
32 **FORCES OR ITS AUXILIARIES, OR HAS BEEN CONVICTED OF AN OFFENSE UNDER**
33 **THE LAWS OF THE UNITED STATES OR OF ANY STATE PUNISHABLE BY**

1 IMPRISONMENT FOR MORE THAN 1 YEAR, NO MATTER WHAT PUNISHMENT WAS
2 ACTUALLY IMPOSED; OR

3 (3) DOES NOT MEET THE QUALIFICATIONS FOR COMMISSIONING,
4 APPOINTMENT, OR ENLISTMENT SPECIFIED IN REGULATIONS GOVERNING THE
5 MARYLAND DEFENSE FORCE.

6 (c) A civil organization, society, club, post, order, fraternity, association,
7 brotherhood, body, union, league, or other combination of persons or civil groups may
8 not enlist in the Maryland Defense Force as an organization or unit.

9 (D) (1) ALL MEMBERS OF THE MARYLAND DEFENSE FORCE SERVE
10 ON A VOLUNTARY BASIS AND WITHOUT PAY, UNLESS UNDER ORDERS, APPROVED
11 BY THE ADJUTANT GENERAL, SPECIFYING THAT THEIR SERVICE IS WITH PAY.

12 (2) IF AN ORDER APPROVED BY THE ADJUTANT GENERAL
13 SPECIFIES THAT THE SERVICE OF A MEMBER OF THE MARYLAND DEFENSE
14 FORCE IS WITH PAY, THE MEMBER MAY BE COMPENSATED IN ACCORDANCE
15 WITH § 13-406 OF THIS TITLE.

16 13-504.

17 (a) [A member of the Maryland Defense Force who is ordered to active duty
18 by the Governor or by the Governor's authority is entitled to the compensation
19 specified for officers and enlisted individuals as provided under § 13-704 of this title.]
20 AN OFFICER OR WARRANT OFFICER COMMISSIONED OR APPOINTED IN THE
21 MARYLAND DEFENSE FORCE SHALL TAKE THE OATH PRESCRIBED IN § 13-509
22 OF THIS SUBTITLE.

23 (b) [An officer commissioned in the Maryland Defense Force shall take an
24 oath substantially in the form required for officers of the organized militia,
25 substituting "Maryland Defense Force" where necessary in the oath.] AN INDIVIDUAL
26 WHO ENLISTS IN THE MARYLAND DEFENSE FORCE SHALL TAKE AN OATH
27 SUBSTANTIALLY IN THE FORM REQUIRED FOR ENLISTED PERSONNEL OF THE
28 NATIONAL GUARD, SUBSTITUTING "MARYLAND DEFENSE FORCE" WHERE
29 NECESSARY IN THE OATH.

30 (c) [An individual who enlists in the Maryland Defense Force shall take an
31 oath substantially in the form required for enlisted personnel of the organized militia,
32 substituting "Maryland Defense Force" where necessary in the oath.]

33 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
34 SUBSECTION, THE ENLISTMENT PERIOD IN THE MARYLAND DEFENSE FORCE IS
35 2 YEARS AND MAY BE RENEWED.

1 **(2) IN THE CASE THAT A STATE OF WAR EXISTS BETWEEN THE**
2 **UNITED STATES AND ANY OTHER NATION, OR THAT THERE IS A FEDERAL OR**
3 **STATE DECLARATION OF EMERGENCY PRESENTLY IN FORCE IN THE STATE, ALL**
4 **ENLISTMENTS SHALL CONTINUE UNTIL 3 MONTHS AFTER SAID STATE OF WAR**
5 **OR EMERGENCY ENDS, UNLESS THE ENLISTED INDIVIDUAL IS DISCHARGED**
6 **SOONER BY PROPER AUTHORITY.**

7 [(d) (1) Except as provided in paragraph (2) of this subsection, the
8 enlistment period in the Maryland Defense Force is 2 years and may be renewed.

9 (2) If the National Guard is called into active federal service, all
10 enlistments shall continue until 6 months after the National Guard has been released
11 from active federal service unless the enlisted individual is discharged sooner by the
12 proper authority.]

13 [(e) (D) The Governor may accept the resignation of an officer or grant a
14 discharge to an enlisted individual at any time.

15 13-506.

16 (a) (1) Except as provided in subsections (b) and (c) of this section, the
17 Maryland Defense Force may not be required to serve outside the State.

18 **(2) THIS SECTION DOES NOT APPLY TO ANY INSTANCE IN WHICH**
19 **THE MARYLAND DEFENSE FORCE AS PART OF THE ORGANIZED MILITIA OF THE**
20 **STATE IS ORDERED INTO SERVICE OF THE UNITED STATES BY THE PRESIDENT**
21 **PURSUANT TO THE CONSTITUTION AND LAWS OF THE UNITED STATES.**

22 (b) (1) On request of the governor of another state, the Governor of this
23 State may order the Maryland Defense Force to serve outside the State to assist the
24 military or [law enforcement forces of the other state that are actually defending that
25 state] **OTHER PUBLIC SAFETY FORCES OF THE REQUESTING STATE.**

26 (2) The Governor of this State may recall the Maryland Defense Force
27 from the other state.

28 (c) If fresh pursuit is authorized by law of another state, any organization,
29 unit, or detachment of the Maryland Defense Force, on the order of the commanding
30 officer of the organization, unit, or detachment, may continue in fresh pursuit of
31 insurrectionists, saboteurs, or enemies outside of this State into the other state until:

32 (1) the insurrectionists, saboteurs, or enemies are apprehended; or

33 (2) the military or law enforcement forces of the other state or forces of
34 the United States have had a reasonable opportunity to pursue or apprehend the
35 insurrectionists, saboteurs, or enemies.

1 (d) (1) An organization, unit, or detachment of the Maryland Defense
2 Force shall surrender without unnecessary delay an individual apprehended in
3 another state to the military or law enforcement force of:

4 (i) the state of apprehension; or

5 (ii) the United States.

6 (2) The surrender of an individual apprehended under paragraph (1)
7 of this subsection to the military or law enforcement forces of another state is not a
8 waiver by this State of the right to extradite or prosecute the individual for a crime
9 committed in this State.

10 13-508.

11 (a) (1) This title does not authorize the Maryland Defense Force to be
12 ordered or drafted into the military service of the United States, **EXCEPT BY ORDER**
13 **OF THE PRESIDENT OF THE UNITED STATES ACTING PURSUANT TO THE**
14 **CONSTITUTION AND LAWS OF THE UNITED STATES.**

15 (2) **THIS PROVISION MAY NOT BE CONSTRUED TO PROHIBIT**
16 **SERVICE OF THE MARYLAND DEFENSE FORCE OR PERSONNEL THEREOF IN**
17 **MISSIONS IN WHICH FEDERAL MILITARY PERSONNEL ARE ALSO SERVING OR IN**
18 **COMMAND.**

19 (b) An individual is not exempt from military service under the laws of the
20 United States because the individual is enlisted [or], commissioned, **OR APPOINTED**
21 in the Maryland Defense Force.

22 **13-509.**

23 **A COMMISSIONED OFFICER OF THE MARYLAND DEFENSE FORCE SHALL**
24 **TAKE THE FOLLOWING OATH OF OFFICE:**

25 **“I,, DO SOLEMNLY SWEAR THAT I WILL SUPPORT AND DEFEND**
26 **THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THE**
27 **STATE OF MARYLAND, AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC; THAT I**
28 **WILL BEAR TRUE FAITH AND ALLEGIANCE TO THE SAME; THAT I WILL OBEY THE**
29 **ORDERS OF THE PRESIDENT OF THE UNITED STATES AND OF THE GOVERNOR**
30 **OF THE STATE OF MARYLAND; THAT I TAKE THIS OBLIGATION FREELY,**
31 **WITHOUT ANY MENTAL RESERVATION OR PURPOSE OF EVASION, AND THAT I**
32 **WILL WELL AND FAITHFULLY DISCHARGE THE DUTIES OF THE OFFICE OF**
33 **..... IN THE MARYLAND DEFENSE FORCE UPON WHICH I AM ABOUT TO**
34 **ENTER, SO HELP ME GOD.”**

1 [13-601.] **13-510.**

2 (a) (1) The Governor shall appoint and commission each **COMMISSIONED**
3 officer **OR APPOINT EACH WARRANT OFFICER** of the organized militia on
4 recommendation [by:

5 (1) the brigade commander if a commanding officer of a unit of a
6 brigade; or

7 (2) the commanding officer of the respective unit or chief of the
8 respective staff corps or department if any other officer] **OF THE ADJUTANT**
9 **GENERAL.**

10 (2) **THE APPOINTMENTS UNDER PARAGRAPH (1) OF THIS**
11 **SUBSECTION DO NOT REQUIRE CONFIRMATION BY THE SENATE OF MARYLAND.**

12 (b) (1) Each individual **COMMISSIONED OR** appointed as an officer **OR**
13 **WARRANT OFFICER** shall be:

14 (i) an officer, **WARRANT OFFICER**, or enlisted individual of the
15 National Guard;

16 (ii) a retired[, reserve,] or former officer **OR WARRANT**
17 **OFFICER** of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard
18 **OR ANY AUXILIARY THEREOF;**

19 (iii) [an enlisted individual from] **AN INDIVIDUAL WITH PRIOR**
20 **ENLISTED SERVICE IN** the United States Army, Navy, Marine Corps, Air Force, or
21 Coast Guard [or a formerly enlisted individual who received an honorable discharge],
22 **OR ANY AUXILIARY THEREOF;**

23 (iv) a graduate of the United States Military Academy, Naval
24 Academy, **COAST GUARD ACADEMY, MERCHANT MARINE ACADEMY**, or Air Force
25 Academy;

26 (v) a graduate of a school, college, university, or officers'
27 training school who received military instruction under the supervision of an officer of
28 the United States Army, Navy, Marine Corps, Air Force, or Coast Guard who certified
29 the graduate's fitness for appointment as a commissioned officer; or

30 (vi) [a civilian] **AN INDIVIDUAL NOT OTHERWISE IDENTIFIED**
31 **IN ITEMS (I) THROUGH (V) OF THIS PARAGRAPH** who is specially qualified for [duty
32 in the technical branches or staff corps and departments] **SERVICE BY**
33 **ACHIEVEMENT IN ANY PROFESSIONAL, TECHNICAL, OR PUBLIC SERVICE**

1 **CAPACITY OR OTHERWISE DISPLAYS EXTRAORDINARY QUALIFICATIONS FOR**
2 **COMMISSIONING AS AN OFFICER OF THE MARYLAND DEFENSE FORCE.**

3 (2) Before taking office, each [individual appointed as an officer shall
4 take the oath as required by § 13-602 of this subtitle] **MEMBER OF THE NATIONAL**
5 **GUARD SHALL TAKE THE OATH PRESCRIBED IN § 13-407 OF THIS TITLE AND**
6 **EACH MEMBER OF THE MARYLAND DEFENSE FORCE SHALL TAKE THE OATH**
7 **PRESCRIBED IN § 13-509 OF THIS SUBTITLE.**

8 (c) When **INITIALLY** appointed, a general officer or colonel **OF THE**
9 **ORGANIZED MILITIA** must:

10 (1) be an officer in the National Guard of a grade of [field officer] **O-4**
11 **OR HIGHER**; or

12 (2) have [been] **SERVED** in [active service in] **ANY COMPONENT OR**
13 **AUXILIARY OF** the United States Army, Navy, Marine Corps, Air Force, or Coast
14 Guard or National Guard with [a] **THE grade OF O-4 OR higher** [than captain].

15 (d) When **INITIALLY** appointed, a lieutenant-colonel or major of the line
16 must have had [active] service as an officer for at least 2 years in **ANY COMPONENT**
17 **OR AUXILIARY OF** the United States Army, Navy, Marine Corps, Air Force, or Coast
18 Guard or National Guard.

19 (E) **SUBSECTIONS (C) AND (D) OF THIS SECTION DO NOT APPLY IN THE**
20 **CASE OF:**

21 (1) **OFFICERS PROMOTED TO THE GRADE OF MAJOR OR ABOVE**
22 **FROM WITHIN THE MARYLAND DEFENSE FORCE; OR**

23 (2) **OFFICERS QUALIFIED UNDER SUBSECTION (B)(1)(VI) OF THIS**
24 **SECTION.**

25 [13-605.] **13-601.**

26 (a) (1) On the recommendation of the Adjutant General, the Governor
27 may grant to an officer of the organized militia a brevet commission of the next higher
28 grade than the regular commission held by the officer.

29 (2) The Governor may grant a brevet commission to an officer of the
30 organized militia of a grade equal to the highest grade in which the officer previously
31 served in the organized militia or in the United States Army, Navy, Marine Corps, Air
32 Force, or Coast Guard.

1 (b) A brevet commission carries only the rights or privileges that are allowed
2 in like cases in the military service of the United States.

3 [13-607.] **13-602.**

4 A commission of an officer **OF THE ORGANIZED MILITIA** may be vacated:

5 (1) on resignation;

6 (2) through absence without leave for 3 months;

7 (3) on recommendation of an efficiency board; [or]

8 (4) under a sentence of a court-martial; **OR**

9 **(5) ON CONVICTION OF A CRIME PUNISHABLE BY INCARCERATION**
10 **FOR 1 YEAR OR MORE IN ANY STATE OR FEDERAL COURT.**

11 [13-603.

12 (a) Each individual appointed as an officer shall pass the tests that the
13 Governor requires on physical, moral, and professional fitness.

14 (b) The Governor shall appoint a board of three commissioned officers from
15 the United States Army or Air Force or the National Guard to conduct the
16 examination required by subsection (a) of this section.]

17 [13-608.] **13-603.**

18 (a) A commissioned officer **OF THE ORGANIZED MILITIA** tendering a
19 resignation shall receive an honorable discharge if:

20 (1) the Governor accepts the resignation;

21 (2) the officer is not under arrest or returned to a military court for a
22 deficiency or delinquency;

23 (3) the officer is not indebted to the State; and

24 (4) the accounts of the officer for money or public property are correct.

25 (b) (1) If the Governor accepts the resignation of an officer who, at the
26 time of the resignation, is under arrest, under charges, or returned to a military court
27 for an offense, deficiency, or delinquency, the officer shall:

28 (i) cease to be an officer; and

1 (ii) receive a discharge in a form that the Governor directs.

2 (2) An officer who resigns under paragraph (1) of this subsection is not
3 eligible to receive a commission unless the officer:

4 (i) reenlists; and

5 (ii) performs at least 100% of duty in each year of the
6 reenlistment for 2 successive years.

7 [13-606.

8 (a) Except as otherwise provided in this title or by regulations of the United
9 States Department of Defense, a commissioned officer may not be removed from office
10 unless the officer consents to the removal.

11 (b) A commissioned officer shall be discharged if:

12 (1) an efficiency board of three commissioned officers, senior in rank to
13 the officer whose fitness for service is under investigation, appointed to determine the
14 moral character, capacity, or general fitness for service of the commissioned officer
15 makes an unfavorable finding; and

16 (2) the official authorized to appoint the efficiency board approves of
17 the findings of the efficiency board.]

18 13-702.

19 (a) This section applies to the Maryland Defense Force [when the Maryland
20 Defense Force exists under law] **AND THE NATIONAL GUARD.**

21 (b) The Governor may order the militia into State active duty:

22 (1) in times of or on reasonable apprehension of imminent public
23 crisis, disaster, rioting, catastrophe, insurrection, invasion, tumult, or breach of peace;

24 (2) when martial law is declared;

25 (3) to enforce the laws; or

26 (4) to carry on any function of the militia of the State.

27 (c) (1) To enforce the laws, a member of the militia in State active duty
28 has all the authority of a peace or law enforcement officer.

29 (2) The authority of the member extends throughout the State during
30 the State active duty.

1 (d) Whenever the militia is in State active duty, the ranking officer of the
2 militia ordered into State active duty or that officer's subordinates on State active
3 duty shall:

4 (1) cooperate with local law enforcement authorities; or

5 (2) if the exigencies of the case require and subject only to order from
6 the Governor:

7 (i) direct and control local law enforcement authorities and the
8 Department of State Police; and

9 (ii) assume all the powers vested in these subordinated law
10 enforcement authorities.

11 13-703.

12 (a) An officer, **WARRANT OFFICER**, or noncommissioned officer may warn
13 officers and enlisted individuals for duty by:

14 (1) stating the substance of the order or reading the order to the
15 individual warned;

16 (2) leaving a copy of the order at the last known place of residence or
17 business of the individual; [or]

18 (3) mailing a copy of the order to the last known residence or business
19 address of the individual; **OR**

20 (4) **SENDING THE SUBSTANCE OF THE ORDER VIA ELECTRONIC**
21 **COMMUNICATION, INCLUDING TELEPHONE, CELLULAR PHONE, FACSIMILE, OR**
22 **ELECTRONIC MAIL.**

23 (b) (1) If required by the officer issuing the order, the officer or
24 noncommissioned officer giving warning shall make a return of warning containing
25 the name of the individual warned and the time, place, and manner of warning.

26 (2) A return of warning:

27 (i) may be verified by the officer or noncommissioned officer's
28 oath, which may be administered by an officer; and

29 (ii) if verified, at the trial of an individual returned as a
30 delinquent is evidence of the facts stated in the return and is to be considered as if the
31 officer or noncommissioned officer had testified to those facts before a court-martial at
32 trial.

1 13-708.

2 (a) A member of the organized militia ordered into State active duty by
3 proper authority is not liable civilly or criminally for [an] ANY act done while
4 discharging a duty.

5 (b) (1) The court shall require a person to file security for the payment of
6 costs that may be awarded to the defendant when the person prosecutes or begins a
7 suit or proceeding:

8 (i) against an officer of the organized militia for an act done by
9 the officer in the officer's official capacity in the discharge of a duty under this title;

10 (ii) against a person acting under the authority or order of an
11 officer of the organized militia; or

12 (iii) by virtue of a warrant that an officer of the militia lawfully
13 issues.

14 (2) In all cases, the defendant may make a general denial and give
15 evidence.

16 (3) If the case is dismissed or a verdict or judgment is rendered
17 against the plaintiff, the defendant shall recover treble costs.

18 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 13-705
19 through 13-708, respectively, of Article - Public Safety of the Annotated Code of
20 Maryland be renumbered to be Section(s) 13-704 through 13-707, respectively.

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.