

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

A BILL ENTITLED

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 certain rules,
6 regulations, and statutes; providing that when certain rules and regulations
7 have been adopted and published by the Adjutant General, they shall have the
8 force and effect of law and constitute a lawful order; providing that adoption
9 and publication of rules and regulations by the Adjutant General are exempt
10 from the requirements of the Administrative Procedure Act; altering the
11 procedures for and penalties that may be imposed by summary courts–martial
12 for the organized militia; and generally relating to powers of the Adjutant
13 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
23 (2011 Replacement Volume and 2012 Supplement)

24 BY adding to
25 Article – Public Safety
26 Section 13–808 and 13–808.1
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2011 Replacement Volume and 2012 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – State Government
4 Section 10–102
5 Annotated Code of Maryland
6 (2009 Replacement Volume and 2012 Supplement)

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

9 **Article – Public Safety**

10 13–302.

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

12 (i) a chief of State operations;

13 (ii) an executive officer;

14 (iii) an administrative officer;

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

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

18 (vi) a grants administrator.

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

21 (b) (1) The Adjutant General shall keep all records required to be kept
22 and filed with the Adjutant General's office.

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

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

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

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

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

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

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

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

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

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

15 (3) The Adjutant General may adopt regulations to enforce this
16 subsection.

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

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

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

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

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

28 **(2) THE RULES AND REGULATIONS SHALL, TO THE EXTENT**
29 **PRACTICABLE, CONFORM TO THE RULES, REGULATIONS, AND STATUTES OF THE**
30 **DEPARTMENT OF DEFENSE, THE ARMY, THE AIR FORCE, AND THE NATIONAL**
31 **GUARD BUREAU OF THE UNITED STATES.**

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

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

8 [13-808.

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

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

13 (b) A summary court officer may:

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

17 (2) administer an oath.

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

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

22 **13-808.**

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

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

30 **13-808.1.**

1 **ALL MEMBERS OF THE ORGANIZED MILITIA MAY BE SUBJECTED TO**
2 **NONJUDICIAL PUNISHMENT IN ACCORDANCE WITH THE PROCEDURES AND**
3 **PENALTIES ADOPTED BY THE ADJUTANT GENERAL UNDER § 13-302 OF THIS**
4 **TITLE.**

5 13-812.

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

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

10 (2) forfeiture of pay and allowances;

11 (3) reprimand;

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

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

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

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

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

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

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

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

22 (3) forfeiture of pay and allowances; or

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

25 **(C) A SUMMARY COURT-MARTIAL MAY IMPOSE A SENTENCE THAT**
26 **INCLUDES:**

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

1 **(2) A FORFEITURE OF UP TO TWO–THIRDS OF THE MEMBER’S PAY**
 2 **AND ALLOWANCES FOR UP TO FOUR UNIT TRAINING ASSEMBLIES;**

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

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

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

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

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

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

14 **Article – State Government**

15 10–102.

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

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

18 (2) each unit that:

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

20 (ii) operates in at least 2 counties.

21 (b) This subtitle does not apply to:

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

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

24 (3) the Injured Workers’ Insurance Fund;

25 (4) a board of license commissioners; [or]

26 (5) the Rural Maryland Council; **OR**

1 **(6) THE MILITARY DEPARTMENT.**

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