

Military Affairs

CHAPTER 190

MILITARY FORCES

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GENERAL PROVISIONS

190.01 MILITARY CODE.

Chapters 190 to 193 shall be known as the military code.

History: (2395) 1921 c 506 s 1

190.02 GOVERNOR TO BE COMMANDER-IN-CHIEF; RULES; STAFF.

The governor shall be the commander-in-chief of the military forces, except so much thereof as may be in the actual service of the United States, and may employ the same for the defense or relief of the state, the enforcement of its law, and the protection of life and property therein.

The governor shall make and publish rules, not inconsistent with law, and enforce all the provisions of the military code.

The governor may appoint a staff, consisting of an adjutant general and six aides-de-camp of field grade who shall be detailed from the national guard.

History: (2407) 1921 c 506 s 13; 1927 c 339 s 1; 1985 c 248 s 70; 1986 c 444

190.025 FRESH PURSUIT.

Subdivision 1. Entry into other states. In case the United States is at war or in case of any other emergency declared by the president or the Congress of the United States or by the governor or the legislature of this state, any organization, unit, or detachment of the military forces of this state, by direction of the governor and upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of this state into another state until they are apprehended or captured by such organization, unit, or detachment, or until the military or police forces of such other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons pursued, provided such other state shall have given authority by law for such pursuit by such forces of this state. Except as otherwise provided by law, any person who shall be apprehended or captured in another state by any of the forces of this state shall without unnecessary delay be surrendered to the military or police forces of the state in which the person is taken or to the United States, but such surrender shall not constitute a waiver by this state of its right to extradite or prosecute such person for any crime committed in this state.

Subd. 2. Military forces of other states may enter state. Any military forces of

another state who are in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces may continue such pursuit into this state until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons pursued, and the pursuing forces may arrest or capture such persons within this state while in fresh pursuit. Any such person who shall be captured or arrested by the military forces of such other state while in this state shall without unnecessary delay be surrendered to the military or police forces of this state to be dealt with according to law.

Subd. 3. Construction of section. This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful, nor to repeal or prevent the application of any of the provisions of the uniform act on the fresh pursuit of criminals.

History: 1943 c 108 s 8; 1986 c 444

190.03 LAWS TO CONFORM TO UNITED STATES REGULATIONS.

The intent of the military code and all acts of the state affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, except as otherwise expressly provided by chapter 192A with respect to military justice, and all acts of the state shall be construed to effect this purpose, and anything to the contrary shall be held to be null and void as long as the subject matter shall have been acted on by the United States; and upon any subject not acted upon with reference to these matters by United States authority, any act of the state shall be in full force and effect.

History: (2396) 1921 c 506 s 2; 1971 c 202 s 1

190.04 ARMED FORCES REGULATIONS TO GOVERN.

All matters relating to the organization, discipline and government of the military forces not otherwise provided for in the military code shall be decided by the custom, regulations and usage of the armed forces of the United States.

History: (2398) 1921 c 506 s 4; 1963 c 550 s 1

190.05 DEFINITIONS.

Subdivision 1. For the purposes of the military code, the terms defined in this section have the meanings given them in this section unless the context clearly indicates otherwise.

Subd. 2. The "department of military affairs" or "military department" is comprised of and includes the military forces of the state, the office of the adjutant general, all military reservations, military installations, armories, air bases, and facilities owned or controlled by the state for military purposes, and civilians employed by the state for the administration of the military department.

Subd. 3. The term "military forces" includes the national guard, the state guard, and any other organizations or components of the organized militia as may be authorized by state or federal law.

Subd. 4. The term "national guard" includes the army national guard and the air national guard.

Subd. 5. Active service. "Active service" means either state active service, federally funded state active service, or federal active service.

Subd. 5a. State active service. "State active service" excludes federal active service and federally funded state active service and includes service or duty:

(1) on behalf of the state in case of actual or threatened public disaster, war, riot, tumult, breach of the peace, resistance of process, or whenever called upon in aid of state civil authority;

(2) at encampments ordered by state authority;

(3) otherwise ordered or requested by state authority and requiring the time of the organization or person; or

(4) travel to or from service or duty under clause (1), (2), or (3).

Subd. 5b. **Federally funded state active service.** "Federally funded state active service" means service or duty under United States Code, title 32, as amended through December 31, 1983, and travel to or from that service or duty.

Subd. 5c. **Federal active service.** "Federal active service" excludes federally funded state active service and means service or duty under United States Code, title 10, as amended through December 31, 1983, other service or duty as may be required by the law, regulation, or order of the United States government, and travel to or from that service or duty.

Subd. 6. The term "enlisted member" includes enlisted members in the army national guard and airmen of the air national guard.

Subd. 7. Unless otherwise stated, all terms, organizational designations, and titles contained in the military code have the same meaning as like terms, organizational designations, and titles in federal law and regulations.

History: (2397) 1921 c 506 s 3; 1943 c 108 s 1; 1947 c 125 s 1; 1963 c 658 s 1; 1971 c 202 s 2; 1977 c 11 s 1; 1983 c 193 s 3-5; 1983 c 301 s 159-161; 1986 c 444

190.06 MILITIA; MEMBERS; EXEMPTIONS.

Subdivision 1. **Composition.** The militia shall consist of all able-bodied male citizens of the state and all other able-bodied males, resident therein, who have or shall have declared their intention to become citizens of the United States, when so authorized by federal law, who shall be 18 or more years of age, and, except as otherwise provided, not more than 45 years of age; provided, that the governor may, when the governor deems it necessary for the defense of the state, extend the maximum age for militia service to not more than 64 years.

Subd. 2. **Classes.** The militia shall be divided into two classes, the organized militia and the unorganized militia. The organized militia shall consist of the following:

- (1) the national guard;
- (2) the state guard, which shall comprise all organized components of the militia except the national guard.

The unorganized militia shall consist of all other members of the militia.

Subd. 3. **Noncombatant service.** The governor may authorize the appointment or enlistment of citizens of the state and all other residents of the state, who have or shall have declared their intention to become citizens of the United States, in the medical corps, nurse corps, and other noncombatant branches and services of the organized militia, and while so serving they shall have the same status as members of the military forces.

Subd. 4. **Exemptions from military duty.** The officers, judicial and executive, of the government of the United States and of the states; persons in the military or naval service of the United States; custom house clerks, persons employed by the United States in the transmission of the mail; artificers and workers employed in the armories, arsenals, and navy yards of the United States; pilots and mariners actually employed in the sea service of any citizen or merchant within the United States, shall all be exempt from militia duty without regard to age, and all persons who because of religious beliefs shall claim exemption from military service if the conscientious holding of such belief by such person shall be established under such regulations as the President of the United States shall prescribe, shall be exempt from militia service in a combatant capacity; but no person so exempted shall be exempt from militia service in any capacity that the President of the United States shall declare to be noncombatant.

History: (2399) 1921 c 506 s 5; 1939 c 175 s 1; 1943 c 108 s 2; 1977 c 11 s 2; 1984 c 609 s 13; 1986 c 444

THE ADJUTANT GENERAL

190.07 APPOINTMENT; QUALIFICATIONS; RANK.

There shall be an adjutant general of the state who shall be appointed by the governor. The adjutant general shall be a staff officer, who at the time of appointment shall be a commissioned officer of the national guard of this state, with not less than ten years military service in the armed forces of this state or of the United States, at least three of which shall have been commissioned and who shall have reached the grade of a field officer.

The adjutant general shall hold rank equal to that of the highest rank authorized for the army and air national guard in the table of organization for units allotted to the state by the department of the army, or the department of the air force, or by both such departments, through the national guard bureau. However, the adjutant general shall not be appointed to the rank of major general without having 20 years service in the national guard, of which one year has been in the rank of brigadier general.

The term of the adjutant general is seven years from the date of appointment. Section 15.06, subdivisions 3, 4, and 5, governs filling of vacancies in the office of adjutant general. The adjutant general shall not be removed from office during a term except upon withdrawal of federal recognition or as otherwise provided by the military laws of this state.

History: (2408) 1921 c 506 s 14; 1927 c 339 s 2; 1939 c 175 s 3; 1943 c 108 s 9; 1953 c 269 s 1; 1984 c 442 s 1; 1986 c 444; 1989 c 11 s 1; 1989 c 335 art 1 s 181

190.08 MILITARY STAFF; ACTIVE DUTY ORDERS; PAY AND ALLOWANCES.

Subdivision 1. The adjutant general, with the approval of the governor, may appoint from among the field officers and general officers of the national guard two assistant adjutants general for army national guard and one assistant adjutant general for air national guard who, if otherwise qualified, may be appointed to general officer grade. An assistant adjutant general serves at the pleasure of the adjutant general. An assistant adjutant general shall also cease to serve upon withdrawal of federal recognition or when otherwise removed in accordance with the military laws of this state.

Subd. 1a. **Executive director.** The adjutant general may appoint an executive director of the department of military affairs. The executive director shall serve at the pleasure of the adjutant general.

Subd. 2. The adjutant general also may appoint from among the officers of the national guard a state quartermaster, a commander for each state owned military reservation or military installation, and such other officers as may be required for the state staff.

Subd. 3. The adjutant general may order to state active service, with their consent, additional officers, warrant officers, and enlisted personnel of the national guard of the state as are required for the full time administration of the military department. Except for those appointed under subdivisions 1 and 2, they may not be removed from office after one year of active service except for cause, reduction in force, or withdrawal of federal recognition, as long as they remain active members of the military forces of the state.

Subd. 4. In case of war, riot, insurrection, emergency, or when otherwise authorized by the governor, the adjutant general may order to temporary active service additional officers, warrant officers, and enlisted personnel of the national guard, including retired personnel, as may be necessary. Personnel do not acquire any of the rights to office under subdivision 3 while performing temporary active service. When their services are no longer required they shall be relieved from active service.

Subd. 5. In addition to the officers, warrant officers, and enlisted members ordered to active service the adjutant general may employ such civilian administrative, clerical, maintenance, and caretaker personnel as are necessary for administration of the military department.

Subd. 6. The adjutant general shall receive the pay and allowances provided by law for an officer of similar rank and length of service in the armed forces of the United States. All other officers, warrant officers, and enlisted members in active service on the staff of the adjutant general shall receive the pay and allowances prescribed for personnel of similar grade and length of service in the armed forces of the United States subject to the following provisions: (1) the adjutant general by general orders may establish for pay purposes the grade authorized for any staff position; and (2) enlisted members may be paid the additional pay authorized by section 192.51, subdivision 2.

History: (2460) 1921 c 506 s 66; 1927 c 339 s 12; 1939 c 175 s 11; 1943 c 108 s 30; 1947 c 125 s 2; 1963 c 658 s 2; 1984 c 442 s 2-4; 1985 c 36 s 1; 1986 c 444; 1989 c 23 s 1; 1990 c 594 art 1 s 60

190.081 [Repealed, 1982 c 560 s 65]

190.09 POWERS, DUTIES.

The adjutant general shall be the chief of staff to the commander-in-chief and the administrative head of the military department. The adjutant general shall have an office in the capitol and keep it open during the usual business hours.

The adjutant general shall have custody of all military records, correspondence, and other military documents. The adjutant general shall be the medium of military correspondence with the governor and perform all other duties pertaining to that office prescribed by law. The adjutant general shall make an annual report to the governor, at such time as the governor may require, of all the transactions of the military affairs department, setting forth the number, strength and condition of the national guard, and such other matters as deemed important and shall make and transmit to the federal government the returns required by the laws of the United States. The adjutant general shall, whenever necessary, cause the military code, orders and rules of the state to be printed and distributed to the commissioned officers and the several organizations of the national guard and shall cause to be prepared and issued all necessary books, blanks and notices required to carry into full effect the provisions of the military code. All such books and blanks shall be and remain the property of the state.

The seal now used in the office of the adjutant general shall be the seal of that office and shall be delivered to the successor in that office. All orders issued from the adjutant general's office shall be authenticated with that seal. The adjutant general shall attest all commissions issued to military officers. The adjutant general will superintend the preparation of all returns and reports required by the United States from the state on military matters.

The adjutant general shall designate an assistant adjutant general to serve as deputy adjutant general to perform the duties of the adjutant general during periods when the adjutant general is absent or unable to perform that officer's duties. In the absence of all of the above, the senior officer of the national guard, shall perform the duties prescribed for the adjutant general.

The flags and colors carried by Minnesota troops in the Civil War, Indian Wars, Spanish-American War, Mexican Border Campaign, the first World War, and subsequent wars shall be preserved in the capitol under the especial care of the adjutant general. They shall be suitably encased and marked, and, so far as the adjutant general may deem it consistent with their safety, shall at all times be publicly displayed.

History: (2440, 4385) RL s 1856; 1921 c 506 s 46; 1927 c 102 s 1; 1931 c 363 s 6; 1943 c 108 s 42; 1963 c 658 s 3; 1984 c 442 s 5; 1985 c 248 s 70; 1986 c 444

190.095 [Repealed, 1982 c 560 s 65]

190.096 BATTLE FLAGS; REPAIR.

Subdivision 1. **Authority to repair.** Notwithstanding the provisions of Minnesota Statutes 1961, chapters 16 and 43, the adjutant general may contract for the repair, res-

toration, and preservation of regimental battle flags, standards, and guidons with persons or corporations skilled in such repair, restoration, and preservation, upon terms or conditions the adjutant general deems proper, subject to the approval of the commissioner of administration.

Subd. 2. **Surrender.** Notwithstanding the provisions of section 190.09, the adjutant general may, for the purposes of this section, surrender the immediate custody and control of regimental battle flags, standards, and guidons under conditions and safeguards the adjutant general deems necessary and proper, for such time as is reasonably necessary for their restoration, after which they shall at once be again properly stored or displayed. The adjutant general shall provide adequate storage and display space for flags, standards, and guidons which have been repaired and restored.

History: 1983 c 193 s 6; 1986 c 444

190.10 DUTIES TRANSFERRED TO ADJUTANT GENERAL.

The authority conferred and the duties imposed upon the military board and the board of armory supervisors under the military code as amended hereby are transferred to, vested in and imposed upon the adjutant general.

History: (2415-1) 1927 c 339 s 16

190.11 CAMP GROUNDS AND MILITARY RESERVATIONS.

The adjutant general shall have charge of the camp grounds and military reservations of the state and shall be responsible for the protection and safety thereof, and promulgate rules for the maintenance of order thereon, for the enforcement of traffic rules and for all other lawful rules as may be ordered for the operation, care and preservation of existing facilities and installations on all state military reservations.

The adjutant general shall keep in repair all state buildings, and other improvements thereon, including water pipes laid by the state on highways leading thereto and of all military property connected with the grounds and may make such further improvements thereon as the good of the service requires.

Private property may be acquired by condemnation, upon the application of the adjutant general, for camp ground, rifle range, and other military purposes. All damages, cost, and expense incurred in condemning such property shall be paid by the state treasurer, upon certificate of the adjutant general and warrant of the commissioner of finance, from any unexpended balance of the military fund after meeting the demands of the national guard.

History: (2450) 1921 c 506 s 56; 1927 c 339 s 9; 1939 c 175 s 9; 1973 c 492 s 14; 1985 c 248 s 70; 1986 c 444

190.115 [Repealed, 1971 c 202 s 11]

190.12 [Repealed, 1971 c 202 s 11]

190.13 RECORDS OF VETERANS' WAR SERVICE.

From the original muster rolls in the office and such additional sources as the adjutant general can command, the adjutant general shall keep a compilation of a complete alphabetical list of the Minnesota volunteers in the Civil War and shall compile and maintain individual records of every Minnesota resident who served or participated in the Civil War, Spanish-American War, Philippine War, Mexican Border service, Indian Wars, and the first World War. The adjutant general shall compile and maintain individual records of all members of the Minnesota national guard who served in the second World War and subsequent wars and conflicts and include therein the military history of each member as it may be obtainable.

History: (2441) 1921 c 506 s 47; 1943 c 108 s 17; 1963 c 658 s 4; 1986 c 444

190.16 ADDITIONAL POWERS OF ADJUTANT GENERAL.

Subdivision 1. The adjutant general may cooperate with the government of the United States or any agency or department thereof in the construction, improvement, or maintenance of buildings, air bases, roads, utilities and any or all other structures or facilities required in the training, housing, and maintenance of the military forces of the state and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys for the military forces of the state.

Subd. 2. The adjutant general may accept federal moneys and other moneys, either public or private, for and in behalf of the state of Minnesota, for the support of the state's military forces, and for the construction, improvement, or maintenance of buildings, air bases, roads, utilities and any or all other structures or facilities required in the training, housing, and maintenance of the military forces of the state upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder.

Subd. 3. When prescribed or required by the laws of the United States and any rules or regulations made thereunder, and notwithstanding any state law to the contrary, the adjutant general shall be the contracting officer for any construction, improvement or maintenance program or project financed either in whole or in part by moneys made available by the federal government and may execute agreements and contracts for and in behalf of the state therefor, including a dedication of the primary use and purpose of such buildings, air bases, roads, utilities or other structures or facilities required in the training, housing, and maintenance of the military forces of the state for periods up to and including 25 years.

Subd. 4. All moneys accepted for disbursement by the adjutant general pursuant to the terms of this section shall, if not required by federal law or rules or regulations made thereunder to be disbursed by a United States property and fiscal officer, be deposited in the state treasury and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were made available and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available to be expended in accordance with the laws of the United States and rules and regulations made thereunder. The adjutant general, when acting for the state of Minnesota, or when requested by the United States government or any agency or department thereof, shall disburse such moneys for the designated purposes but this shall not preclude any other authorized method of disbursement.

Subd. 5. Nothing in this section shall be construed as creating any personal liability upon the adjutant general when acting pursuant to this section.

Subd. 6. Notwithstanding the provisions of any law to the contrary, the adjutant general, with the approval of the governor, may lease any lands now owned or hereafter acquired by the state for the training, housing, and maintenance of its military forces or any part thereof to the United States of America for military and national defense purposes upon such terms as they deem proper providing, however, that no such lease shall in any way interfere with the training, housing and maintenance of the military forces of this state.

Subd. 7. **Delegation of contract authority.** The adjutant general may delegate to subordinate employees the exercise of contract execution and administration authority which the adjutant general holds under a delegation by the commissioner of administration pursuant to section 16B.05, subdivision 1. A delegation by the adjutant general must be made by written order, filed with the secretary of state.

History: 1957 c 242 s 1,2; 1987 c 36 s 1

CAMP RIPLEY

190.25 LANDS FOR TRAINING ARMED FORCES.

Subdivision 1. The adjutant general is hereby authorized to acquire in the name of the state by purchase, gift, or condemnation, all lands which the adjutant general may deem necessary, including lands already devoted to a public use, for military training purposes, adjacent to or in the vicinity of the military field training center at Camp Ripley, or at any other suitable place in this state, subject to the limitations of funds appropriated and available.

Subd. 2. The adjutant general may, except as to lands already devoted to a public use, at any time after the filing of a petition for the condemnation of any lands authorized by this section take possession of it. Proceedings for the condemnation of lands authorized herein shall be governed by chapter 117.

Subd. 3. The adjutant general is authorized to sell in the manner provided by law any or all

(1) land, and

(2) timber, growing crops, buildings, and other improvements, if any, situated upon the land,

acquired under the authority of subdivision 1 or which may hereafter comprise the Camp Ripley military field training center and not needed for military training purposes. The proceeds of any sales shall be deposited in the general fund. The adjutant general may use funds that are directly appropriated for the acquisition of land, the payment of expenses of forest management on land forming the Camp Ripley military reservation, and the provision of an enlisted person's service center.

Subd. 4. The adjutant general is authorized, whenever military training purposes require, to close and obliterate any and all public roads or highways established over and upon any of the lands acquired under the authority of this section. In order to accomplish prescribed military training at the Camp Ripley Military Reservation, the adjutant general may temporarily close any road or highway adjacent to the Camp Ripley Military Reservation with the concurrence of the road authorities. Prior to closing any road or highway the adjutant general shall erect suitable signs and barriers in ample time so as to minimize any inconvenience to the traveling public.

History: 1951 c 511 s 1; 1953 c 642 s 1,2; 1961 c 653 s 1,3; 1980 c 407 s 1; 1981 c 46 s 1; 1986 c 444; 1989 c 335 art 4 s 65; 1990 c 594 art 1 s 61

190.26 [Repealed, 1989 c 335 art 4 s 109]

190.27 [Repealed, 1980 c 407 s 7]

190.28 [Repealed, 1978 c 478 s 9]

190.29 LEASE TO UNITED STATES.

The adjutant general, with the approval of the governor, may lease any lands now owned or acquired by the state for military training purposes, including the military training center at Camp Ripley, or any part thereof, to the United States for military training purposes during the times and upon the terms as they find proper, provided that no lease shall be made for a term longer than 20 years, and sufficient facilities at the training center shall be reserved for the maintenance and field training of the national guard of the state.

History: 1951 c 511 s 4; 1980 c 407 s 3

190.30 REQUISITION FOR TAX-FORFEITED LAND.

Subdivision 1. The adjutant general may requisition for military training purposes any tax-forfeited land in the state or any state land in the custody or under the control of the commissioner of natural resources or any agency of the department of natural resources, subject to the conditions hereinafter prescribed. The requisition shall be made by filing a certificate thereof executed by the adjutant general as follows:

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(a) With the county auditor of the county in which the land is situated in the case of tax-forfeited land held subject to any control or authority of the county board;

(b) With the officer having custody of the state land records in the department of natural resources in the case of any tax-forfeited land or other state land not subject to any control or authority of a county board.

Subd. 2. No such requisition shall be made in the case of any state land which has been designated or set apart for any specific public use without the approval of the commissioner of natural resources.

Subd. 3. No such requisition shall be made in the case of any tax-forfeited land within the limits of any city without the approval of the governing body thereof.

Subd. 4. Land so requisitioned may be leased to the United States for military or naval training purposes as hereinbefore provided.

Subd. 5. Land requisitioned, so long as used by the state or by the United States for military training purposes, shall be relieved from any trust in favor of any taxing district and from any control or authority of any other public agency for any other purposes. In case the use of land for military training purposes should cease, it shall revert to its status immediately prior to being requisitioned for those purposes, and shall be subject to all the conditions and incidents attached to its prior status.

Subd. 6. Expenses incident to the requisitioning of land for military training purposes hereunder, to the leasing of such land to the United States, and to proceedings to perfect the title to the land, if necessary, shall be payable from the appropriations made for acquisition of land.

History: 1951 c 511 s 5; 1969 c 1129 art 3 s 1; 1973 c 123 art 5 s 7; 1980 c 407 s 4-6

190.31 [Repealed, 1975 c 432 s 97]

190.32 FEDERAL REIMBURSEMENT RECEIPTS.

The department of military affairs may deposit federal reimbursement receipts into the general fund account, maintenance of military training facilities. These receipts are for services, supplies, and materials initially purchased by the Camp Ripley maintenance account.

History: 1984 c 654 art 2 s 120