

REVISED LAWS OF  
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,  
AND OTHER LAWS OF A GENERAL AND  
PERMANENT NATURE, ENACTED  
BY THE LEGISLATURE IN  
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES  
AND FULL AND COMPLETE NOTES OF ALL  
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY  
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## CHAPTER 12.

## MILITARY CODE.

## MILITIA.

**1047. Commander-in-chief—Powers and duties—Staff.**

See section [1047-] 1.

[1047-]1. **Adjutant general—Term—Vacancy—Removal.**—The adjutant general shall be appointed and commissioned for a term of six years and until his successor has qualified. The first term hereunder shall commence the first Monday in January, 1907. Vacancy may be caused by resignation, or he may be removed for disability or for cause, to be determined by court martial under the provision of section 1097, Revised Laws of Minnesota for 1905. ('07 c. 443 § 4)

**Historical.**—This is section 4 of the act referred to in note under section 1050.

## NATIONAL GUARD.

1048. **How constituted—Peace strength.**—The active militia, organized, armed and equipped as required by law, shall be known as the "Minnesota National Guard." In time of peace it shall consist of three regiments of infantry organized into a brigade, and one battalion of field artillery which may be attached to the brigade for the purpose of administration and instruction; also the several staff corps and departments, similar to the staff corps and departments prescribed for the regular army of the United States, which are hereby authorized to the extent that the same may be necessary to provide proper staff officers and enlisted men for the national guard as herein established. The term "National Guard" shall apply only to the militia organized as a land force. The provisions of this chapter relating to the corps of artillery shall apply to the battalion of field artillery. (R. L. § 1048, as amended by Laws 1909, c. 56, § 1.)

**Historical.**—"An act to further conform the organization of the National Guard to that prescribed for the regular army." Approved March 11, 1909.

Section 1 also amends R. L. §§ 1049-1053, 1071, as amended. Section 2 repeals inconsistent acts.

See Laws 1905, c. 225.

**1049. Staff officers—Qualifications for command—Changes.**

No appointment on the staff of the governor shall qualify the appointee for the actual command of troops, without the examination and qualifications prescribed by law. For the purpose of conforming the national guard more closely to the organization of the United States army, and not otherwise, the governor may, by orders issued from time to time, fix the number and grade of officers and enlisted men in the staff corps and departments. And in case of war, invasion, insurrection, riot or imminent danger of either, the governor may temporarily increase such force to meet such emergency. (R. L. § 1049, as amended by Laws 1909, c. 56, § 1.)

See note under section 1048.

1050. **Organization—Armament.**—The organization, armament and discipline of the Minnesota Guard shall be the same as that which is now or may hereafter be prescribed for the regular army of the United States, subject in time of peace to such general exceptions as may be authorized by the secretary of war. Provided,

that in peace and in war each organized division of militia may have one inspector of small arms practice with the rank of lieutenant colonel; each organized brigade of militia, one inspector of small arms practice with the rank of major; each regiment of infantry or cavalry of organized militia one inspector of small arms practice with the rank of captain, and each separate or unassigned battalion of infantry or engineers or squadron of cavalry of organized militia, one assistant inspector of small arms practice with the rank of first lieutenant. (R. L. § 1050, as amended by Laws 1907, c. 443, § 1, and Laws 1909, c. 56, § 1.)

**Historical.**—For Laws 1909, c. 56, see note under section 1048. Section 1 of Laws 1907, c. 443, "An act to conform the organization of the national guard to that prescribed for the regular and volunteer armies of the United States, amending the provisions of the military code relative to inspection and other allowances, repealing section 1073 of the Revised Laws of 1905, and fixing the term of the adjutant general," approved April 25, 1907, amended R. L. §§ 1050, 1052, and 1053 "as amended by" Laws 1905, c. 225. By section 2 of Laws 1907, c. 443, R. L. §§ 1071, 1072, 1088, and 1092, were amended; and by section 3 R. L. § 1073, was repealed: For section 4, see section [1047—]1. Section 5 repealed inconsistent acts. By Laws 1905, c. 225, sections 17, 20, 35, 105, 124, and 140 of the Military Code (Laws 1897, c. 118), as amended, were further amended. The above sections were incorporated in R. L. §§ 1052, 1053, 1064, 1084, 1107. Laws 1907, c. 118, is not included among the laws of that year repealed by R. L. § 5542.

**1051. Staff departments.**—The adjutant general's department shall consist of the adjutant general, with the rank of brigadier general, one adjutant general with the rank of lieutenant colonel, each of whom shall be appointed or detailed and shall perform the duties and receive pay as now provided by law for the adjutant general and assistant adjutant general, respectively; and two majors, one of whom shall be available for detail on the staff of the brigade. The inspector general's department and the judge advocate general's department shall consist each of one major, for detail on the staff of the brigade. The quartermaster's department and the subsistence department shall each consist of the adjutant general, ex-officio, acting as quartermaster general and commissary general, and one major in each of said departments for detail on the staff of the brigade. The medical department shall consist of the surgeon general and the assistant surgeon general, with rank and duties as now provided by law; four surgeons, with the rank of major; eleven assistant surgeons, with the rank of first lieutenant, eligible to promotion as provided by law; one veterinarian, and one hospital corps to be composed of three sergeants first class, seven sergeants, twenty privates, first class, and ten privates. The officers and enlisted men of the medical department will be detailed to the line as follows: To the brigade staff, one surgeon; to each regiment of infantry, one surgeon, three assistant surgeons, one sergeant, first class, two sergeants, six privates, first class, and three privates; to the battalion of field artillery, two assistant surgeons, one veterinarian, one sergeant, two privates, first class, and one private. The pay department shall consist of the adjutant general, ex-officio acting as paymaster general. The corps of engineers and signal corps shall consist of one captain for detail to the battalion of field artillery. The ordnance department shall consist of the adjutant general, ex-officio acting as chief of ordnance; one major for detail on the staff of the brigade; one captain for general detail and one captain and military storekeeper who shall be appointed, perform the duties and receive pay as now provided by law for the military storekeeper; and one first lieutenant and one sergeant for detail to the battalion of field artillery. (R. L. § 1051, as amended by Laws 1909, c. 56, § 1.)

See note under section 1048.

**1052. Staff departments—Appointments.**—The officers and enlisted men of the staff corps and departments, designated for detail to the several organizations of the line, shall be appointed or enlisted by, and hold office during the pleasure of the commanding officers of such organizations, respectively, subject, in the case of officers, to the approval of the governor. (R. L. § 1052, as amended by Laws 1907, c. 443, § 1, and Laws 1909, c. 56, § 1.)

See note under sections 1048, 1050.

**1053. Military board.**—The brigade commander and the regimental commanders, including the commanding officer of the battalion of field artillery, shall constitute a military board, and meet quarterly at such stated time and place as they may fix, and at such other times as they may be convened by the adjutant general. The board shall consider the status and needs of the national guard and such other matter as may be referred to them, and make suitable recommendation thereon to the adjutant general. The members shall receive no compensation or allowance for expenses beyond transportation and pay for one day's attendance at each session of the board. (R. L. § 1053, as amended by Laws 1907, c. 443, § 1, and Laws 1909, c. 56, § 1.)

See note under sections 1048, 1050.

### RESIGNATIONS AND DISCHARGES.

**1064.** [Repealed.]

See section [1064—]1.

**[1064—]1. Officers, when and how retired—Marks for long service.**—Any commissioned officer of the National Guard who has served or shall have served as such officer for a period of not less than ten years, and any commissioned officer of the National Guard who has been honorably discharged from the army of the United States after serving therein for a period of ninety days or more during the war of the Rebellion or during the war with Spain, and who shall have served as such officer of the National Guard for a period of not less than five years, and any commissioned officer of the National Guard who has become, or who shall hereafter become disabled, and thereby incapable of performing the duties of his office, may, upon his own request in writing, stating the grounds therefor, and by order of the commander-in-chief, be withdrawn from active service and have his name placed on a roll in the office of the adjutant general, to be known as the "Roll of Retired Officers," and shall thereby be entitled to wear, on state or other occasions of ceremony, the uniform of the rank last held by him. The commander-in-chief may, by general order, provide a suitable mark of distinction for all officers, and enlisted men who have served in the National Guard for an aggregate period of ten, fifteen and twenty years, respectively, and for like service hereafter. (Laws 1897, c. 118, § 140, as amended by Laws 1901, c. 162, § 4, and Laws 1905, c. 225, § 6.)

**Historical.**—Section 140 of the Military Code (Laws 1897, c. 118, as amended, was further amended, as above set forth, by Laws 1905, c. 225, § 6. See note under section 1050. Section 140 of the Military Code was amended by Laws 1901, c. 162, § 4. The last act was repealed by R. L. § 5544; the provisions of said section as amended being incorporated in section 1064. By virtue of section 7 of Laws 1905, c. 225, repealing inconsistent acts, and of R. L. § 5504, section 1064 appears to be repealed.

### UNIFORM—ARMS—ACCOUTREMENTS.

**1071. Uniform—Equipments.**—The uniform and equipment of the national guard shall be the same as that which is now or

may hereafter be prescribed for the regular army of the United States, except that the state designation shall be substituted for the letters "U. S." on the collar. Uniforms and equipments for any required service shall be provided for all organizations having the minimum membership required in section 1088. They shall be issued by the adjutant general as the needs of the service may require on the basis of the federal clothing allowance and shall be accounted for or dropped from the returns in like manner. (R. L. § 1071, as amended by Laws 1907, c. 443, § 2, and Laws 1909, c. 56, § 1.)

See note under sections 1048, 1050.

**1072. Same—Distribution and return—Forfeiture.**—The commanding officer of a company or battery receiving clothing or equipage so issued for the use of his command shall distribute the same as he deems proper, taking receipts, and requiring the return of each article at such time and place as he shall direct. Every person failing to comply with such directions shall forfeit not to exceed double the price of the article withheld, which forfeiture the commanding officer may recover in a civil action. All sums so collected shall be paid into the state treasury, and added to the current appropriation for the support of the guard. The proceeds of the sale or transfer of condemned and other military property shall be turned over to the state auditor and by him placed to the credit of the national guard fund to be used, under the direction of the adjutant general, in the purchase of similar property, or for other necessary expenses of the service. (R. L. § 1072, as amended by Laws 1907, c. 443, § 2.)

**Historical.**—By Laws 1907, c. 443, § 2, "sections 1071, 1088, and 1902, \* \* \* are amended to read as follows": Section 1072, as above set forth, follows, though not previously mentioned.

See note under section 1050.

**1073.** [Repealed. Laws 1907, c. 443, § 3.]

See Laws 1905, c. 225, § 5, and note under section 1050.

## INSTRUCTION.

**1084.** [Superseded.]

See section [1084—]1.

**[1084—]1. Encampments—Field maneuvers—Additional pay.**—The commander-in-chief shall order the national guard into camp each year for such period as he may direct. He may, in his discretion, order such organizations as he may deem proper, to parade for purposes of drill, review, or escort duty, and prescribe all regulations and requirements therefor. The commander-in-chief may also provide for the participation of the National Guard, or any portion thereof, in encampments or field maneuvers at such places as may be designated by the war department pursuant to any act of Congress; and in such case the officers and enlisted men attending the same shall receive, in addition to the pay and subsistence provided by the federal laws and regulations, the difference between such federal pay and state pay as provided by the military code for active service. Whenever the entire military forces of the state participate in such maneuvers the same shall be mobilized at the state encampment grounds, Lake City, except that portion of said troops as may be stationed on the way to the place of maneuvers. (Laws 1897, c. 118, § 105, as amended by Laws 1905, c. 225, § 4.)

**Historical.**—Section 105 of the Military Code (Laws 1897, c. 118) was amended as above set forth, by adding thereto the words which begin with the third sentence in the above, by section 4 of Laws 1905, c. 225. Laws 1897, c. 118, is not included in the acts of that year repealed by R. L. § 5542, but

the provisions of section 105 thereof are incorporated in R. L. § 1084. By virtue of section 7 of Laws 1905, c. 225, repealing inconsistent acts, and of R. L. § 5504, section 1084 thereof appears to be repealed.

### PAY AND ALLOWANCES.

**1088. Per capita allowance—Military fund.**—The state shall pay annually to the officers hereinafter specified \$7 for each officer, non-commissioned officer, musician and other enlisted men of their respective organizations reported by the inspecting officer as fully uniformed and equipped. Said money shall be known as the military fund, and shall be used only for the purchase of uniforms, care of armories, and other necessary expenses of the regiment, company or battery. But no such payments shall be made on account of any company or battery whose number, present at the inspection or satisfactorily accounted for, was below forty-six officers and enlisted men, or which had been mustered within thirty days before the inspection, or had held fewer than the required number of drills; nor on account of any company officer or man not mustered at least thirty days before the inspection, or who has not drilled on an average of at least twice a month during his membership, exclusive of camp duty and active service. Such payments on account of a company or battery shall be made to its commanding officer; on account of the brigade commander and his staff, to the general in command; on account of the field and staff, non-commissioned staff, band and medical corps, to the respective commanding officers of the regiments and corps or battalion of artillery. All such payments shall be made upon the requisition of the officer entitled to receive the same, approved by the adjutant general. Any balance of said funds shall be paid over by the officer receiving it to his successor. (R. L. § 1088, as amended by Laws 1907, c. 443, § 2.)

See note under section 1050.

**1092. Pay of officers—Allowances.**—Every commissioned officer of the national guard, not salaried, shall receive from the state, while engaged in any service ordered by the governor, pay and allowances at the rate paid or allowed by law to officers of similar rank in the United States army. There shall also be paid annually to officers in actual command of troops, for incidental expenses, the following sums: To the brigade commander, one hundred dollars; to the commanding officer of each regiment, two hundred and fifty dollars; to the corps or battalion of artillery, one hundred and fifty dollars; to the commanding officer of each company and battery, the assistant adjutant general of the brigade, each regimental adjutant and the adjutant of the corps or battalion of artillery, one hundred dollars. (R. L. § 1092, as amended by Laws 1907, c. 443, § 2.)

See note under section 1050.

### MILITARY OFFENSES AND TRIALS.

**1107.** [Superseded.]

See section [1107—]1.

**[1107—]1. Field officers' courts.**—The officers second in rank present for duty with each regiment of infantry or battalion of artillery, or such other field, staff or line officer as may be designated by the regimental commander, shall constitute the field officers' court for the trial of enlisted men in such regiment or battalion. (Laws 1897, c. 118, § 35, as amended by Laws 1905, c. 225, § 3.)

**Historical.**—Section 35 of the Military Code (Laws 1897, c. 118) was amended, as above set forth, by Laws 1905, c. 225, § 3. Laws 1897, c. 118, is not

included in the acts of that year repealed by R. L. § 5542. By virtue of section 7 of Laws 1905, c. 225, repealing inconsistent acts, and of R. L. § 5504, section 1107 appears to be repealed.

See note under section 1050.

### NAVAL RESERVE.

**1150-1153.** [Superseded.]

See sections [1153—]1 to [1153—]16.

**[1153—]1. Naval militia.**—There shall be allowed in addition to the land military forces of the state now authorized by law a naval force to be known as the Minnesota Naval Militia. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

**Historical.**—Laws 1899, c. 355, was amended, to read as set forth in sections 1 to 17 thereof, by an act entitled "An act to amend chapter 355, of the General Laws of the State of Minnesota for the year 1899, relating to the naval reserve." Approved March 10, 1905 (Laws 1905, c. 34). Laws 1899, c. 355, was repealed by R. L. § 5543; its provisions being incorporated in sections 1150-1153. So far as the provisions of Laws 1905, c. 34, differ from said sections, they are to be construed as amendatory or supplemental, and their effect is to supersede said sections.

**[1153—]2. Commanders-in-chief—Regulations — Powers.**—The governor shall be commander-in-chief of the naval militia, except when it is called into the service of the United States. He shall make and publish through the adjutant general regulations for the government of the naval militia and shall have all the powers necessary to carry into full effect the provisions of this act. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

**[1153—]3. Organization—Battalion.**—The naval militia shall consist of one battalion of not to exceed four divisions (or companies) to be organized with a commander as battalion commander; one executive officer, one navigating officer, one past assistant engineer, each with the rank of lieutenant commander; one ordnance and equipment officer, one assistant surgeon and one assistant paymaster, each with the rank of lieutenant; one signal officer with the rank of lieutenant (junior grade), and one aide with the rank of ensign; also the following petty officers: one master-at-arms, who shall be chief petty officer; one chief boatswain's mate, one chief quartermaster, one equipment yeoman, one chief bugler and one coxswain. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1, and Laws 1909, c. 389, § 1.)

**Historical.**—"An act to amend chapter 34 of the General Laws of the State of Minnesota for the year 1905, relating to the Naval Reserve." Approved April 22, 1909.

Section 2 repeals inconsistent acts. See note under section [1153—]1.

**[1153—]4. Division, how composed.**—Each division shall consist of one lieutenant, one lieutenant (junior grade), one ensign, and not less than thirty-five nor more than eighty petty officers and men. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

**[1153—]5. Number and grade—Changes.**—For the purpose of conforming the naval militia more closely to the organization of the United States navy, and not otherwise, the governor may, from time to time, fix the number and grade of officers, petty officers and enlisted men therein. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

**[1153—]6. Battalion commander.**—The battalion commander shall be appointed in the first instance by the governor and thereafter elected as hereinafter provided. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

**[1153—]7. Officers—How elected or appointed.**—The battalion commander and the executive officer shall be elected by the line

officers of the battalion for the period of ten years; the division officers shall be elected by the officers, petty officers and enlisted men of the division; the other battalion officers shall be appointed by the battalion commander and shall hold office during his pleasure subject to the approval of the governor. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

[1153—]8. **Petty officers.**—Petty officers shall be appointed by the battalion commander upon the recommendation of their commanding officer. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

[1153—]9. **Term of service—Enlistments.**—Men between the ages of eighteen and forty-five years shall be mustered in for the term of three years unless sooner discharged by competent authority. Every recruit shall sign an enlistment paper, the form of which shall be prescribed by the adjutant general, and which shall contain an oath of allegiance to the state and the United States. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

[1153—]10. **Officers, how commissioned.**—Officers shall be commissioned by the governor with rank from date of their election or appointment subject to such examination as may be prescribed by the governor. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

[1153—]11. **Examining board.**—The governor may appoint an examining board to consist of not less than two or more than five commissioned officers of the naval militia, one of whom may be an officer of the United States navy, whose duty it shall be to determine the qualifications of candidates for commission, and to inquire into the capability of any subordinate officer who may be sent before such board by his superior officer with the approval of the governor. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

[1153—]12. **Discipline.**—When not otherwise provided for the government and discipline of the Minnesota naval militia shall be controlled by the provisions of the military code relating to the government and discipline of the national guard so far as the same may be applicable to the naval forces. The naval forces shall be subject to the articles and regulations for the government of the United States navy to the same extent as members of the national guard are subject to the articles of war and regulations of the United States army. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

[1153—]13. **Annual cruise.**—The governor shall order the naval militia on a tour of duty or cruise each year, within or without the state, for such period as he may direct, such annual cruise not to consume more than 2 weeks in any one year. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

[1153—]14. **Pay and allowance.**—For each day's service in complete uniform at the annual tour of duty or service, when ordered by the governor, there shall be paid to each chief master-at-arms and chief machinist's mate, \$3.00; to each chief boatswain's mate, chief gunner's mate, chief quartermaster, and chief electrician, \$2.75; to each ship's carpenter, hospital steward and apothecary, \$2.50; to petty officers, first class as follows: to each machinist's mate and electrician, \$2.50; to each master-at-arms, boatswain's mate, gunner's mate, quartermaster, water tender and yeoman, \$2.25; to petty officers of second class as follows: to each machinist's mate and electrician's mate, \$2.25; to each master-at-arms, boatswain's mate, gunner's mate, quartermaster, oiler and yeoman, \$2.00; to petty offi-



cers, third class, as follows: to coxswain of the gig and coxswain of the steam cutter, each, \$2.00; to each master-at-arms, coxswain, gunner's mate, quartermaster, electrician, yeoman, hospital apprentice, jack of the dust and bugler, \$1.75; to each coal passer, \$2.00; to each enlisted man serving as mess man when not as extra duty, \$0.25 additional; to each enlisted man serving as coal passer when not as extra duty, \$0.50 additional; to each first class signalman, \$2.00; to each second class signalman, \$1.75; to each third class signalman, \$1.60; to each fireman, first class, \$2.25; to each fireman, second class, \$2.00; to any man who has successfully passed a prescribed course in gunnery and has attained the necessary percentage in marksmanship with small arms and heavy guns, \$0.25 additional; to each enlisted man or seaman, \$1.50. Provided, that a deduction of fifty cents per day, or so much thereof as may be necessary, from the pay of each petty or warrant officer and each enlisted man shall be made for subsistence if furnished by the state. Each and every officer of the naval militia while in any service under the orders of the governor shall receive the same rate of compensation and the same allowance or commutation as is paid or allowed officers of similar rank in the United States navy for sea duty. Provided, further, that there shall be allowed annually to the battalion commander and staff and to each division or company of the naval militia the same inspection allowance and the same allowance for incidental expenses as is now paid commanding officers and men of the Minnesota national guard, said allowances to be paid under the same regulations as govern the payment of the like allowances to a regiment or company of infantry of the Minnesota national guard. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1 and Laws 1909, c. 389, § 1.)

See note under section [1153—]3.

**[1153—]15. Purchase of supplies.**—The governor, the adjutant general, and the commanding officer of the naval militia are hereby appointed commissioners for the purpose of purchasing the clothing which may be necessary for the uniforming of the naval militia. Clothing, ordnance and other stores for the naval militia shall be purchased in the manner prescribed by the military code for the purchase of stores for the national guard. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

**[1153—]16. Other duties—Armory.**—The naval militia shall perform such other duty as may be required by the governor. The word "armory," as used in the military code, shall be held to include any vessel, anchored, moored or secured to land, or any boat, boathouse or dock, used for the purpose of instruction, drill or defense. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)

**[1153—]17. Exemptions.**—The exemptions and privileges granted by law to the officers and enlisted men of the national guard are extended to the members of the naval militia. (Laws 1899, c. 355, as amended by Laws 1905, c. 34, § 1.)