

Military and Naval Affairs

CHAPTER 190

THE MILITARY FORCES

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GENERAL PROVISIONS

190.01 MILITARY CODE. Chapters 190 to 193 shall be known as the Military Code.

[1921 c. 506 s. 1] (2395)

190.02 GOVERNOR TO BE COMMANDER-IN-CHIEF; RULES AND REGULATIONS; 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.

He shall make and publish regulations, not inconsistent with law, and enforce all the provisions of the Military Code.

He 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.

[1921 c. 506 s. 13; 1927 c. 339 s. 1] (2407)

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 he 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.

[1943 c. 108 s. 8]

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, 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.

[1921 c. 506 s. 2] (2396)

190.04 UNITED STATES ARMY 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 United States army.

[1921 c. 506 s. 4] (2398)

190.05 DEFINITIONS. Subdivision 1. The term "military forces" includes the National Guard, the Naval Militia, and any other organizations or components of the organized militia.

Subd. 2. **"Company," "a division of naval militia," "battalion," and "brigade" defined.** The designation "company" includes a company of infantry, engineers, signal corps, a flight of the air service, a battery of field artillery, a troop of cavalry, a division of naval militia, or any similar organization in any branch of the military service authorized by federal law for this state, including a permanent detachment of the medical department attached to a line or staff organization, a field hospital, or a headquarters detachment. The designation "battalion" applies in like manner to a squadron of cavalry and air service; the designation "brigade" applies also to a combat team, a group of antiaircraft battalions, an air group, and a group of field artillery battalions.

Subd. 3. **"Active service"** shall be understood and construed to be service on behalf of the state, in case of public disaster, war, riot, tumult, breach of the peace, resistance of process, or whenever the same is threatened, whenever called upon in aid of civil authorities, at encampments whether ordered by state or federal authority, or upon any other duty requiring the entire time of the organization or person. "On duty" shall include periods of drill and such other training and service as may be required under state or federal law, regulations or orders.

Subd. 4. The terms, "in the service of the United States" and "not in the service of the United States," used herein shall be understood to mean and be the same as such terms are used in the National defense act of congress approved June third, nineteen hundred sixteen, and amendments thereto.

[1921 c 506 s 3; 1943 c 108 s 1; 1947 c 125 s 1] (2397)

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 he 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 naval militia;
- (3) the state guard, which shall comprise all organized components of the militia except the national guard and the naval militia.

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

Subd. 3. **May enlist female citizens.** The governor may authorize the appointment or enlistment of female citizens of the state 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 male 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 workmen 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 non-combatant.

[1921 c. 506 s. 5; 1939 c. 175 s. 1; 1943 c. 108 s. 2] (2399)

THE ADJUTANT GENERAL

190.07 APPOINTMENT; QUALIFICATIONS; RANK. There shall be an adjutant general of the state who shall be appointed by the governor, who 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.

He 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, he shall not be appointed to the rank of major general unless he has 20 years service in the national guard, of which 2 years has been in the rank of brigadier general.

He shall hold office as provided in section 110, Act of Congress, approved June 3, 1916, and shall not be removed from office except as provided by the military laws of this state.

[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] (2408)

190.08 PAY, ALLOWANCES. The adjutant general shall receive the pay and allowances of a brigadier general as now or hereafter provided by law for an officer of similar rank and length of service in the Regular Army of the United States. He may appoint an assistant adjutant general, a state quartermaster, and necessary administrative and clerical assistants. In case of war, riot, insurrection, or other emergency, or when authorized by the governor, he may employ such additional temporary assistants as are necessary, to be paid from the amounts appropriated for the maintenance of the military forces.

[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] (2460)

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. He shall have an office in the capitol and keep it open during the usual business hours.

He shall have custody of all military records, correspondence, and other military documents. He shall be the medium of military correspondence with the governor and perform all other duties pertaining to his office prescribed by law. He shall make an annual report to the governor, at such time as the governor may require, of all the transactions of his department, setting forth the number, strength and condition of the national guard, and such other matters as he may deem important. He shall make and transmit to the federal government the returns required by the laws of the United States and submit to the governor a duly certified copy thereof. He shall, whenever necessary, cause the military code, orders and regulations of the state to be printed and distributed to the commissioned officers and the several organizations of the national guard. He 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 his office and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with his seal. The adjutant general shall attest all commissions issued to military officers. He will superintend the preparation of all returns and reports required by the United States from the state on military matters.

In the absence or inability to perform his duties as adjutant general, the next senior officer in the adjutant general's department, or in his absence the senior officer of the national guard, shall perform the duties prescribed for the adjutant general.

In addition to all other duties imposed upon the adjutant general by law or by the lawful directions of the governor, he shall act as the agent of all residents of the state having claims against the United States for pensions, bounty, or back pay, arising out of or by reason of any war or federal service and prosecute such claims without charge, and shall make and preserve, by counties, as a part of the war records collection, a permanent registry of the graves of all persons who shall have served in the military or naval forces of the United States and whose mortal remains may rest in Minnesota.

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.

[R. L. s. 1856; 1921 c. 506 s. 46; 1927 c. 102 s. 1; 1931 c. 363 s. 6; 1943 c. 108 s. 42] (2440, 4385)

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.

[1927 c. 339 s. 16] (2415-1)

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 regulations for the maintenance of order thereon, for the enforcement of traffic rules and for all other lawful regulations as may be ordered for the operation, care and preservation of existing facilities and installations on all state military reservations.

He 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. He 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 state auditor, from any unexpended balance of the military fund after meeting the demands of the national guard.

[1921 c. 506 s. 56; 1927 c. 339 s. 9; 1939 c. 175 s. 9] (2450)

190.115 MILITARY CAMP GROUNDS LEASED OR LOANED TO UNITED STATES. The adjutant general, with the approval of the governor, may in time of war or other declared emergency lease or lend to the federal government any or all of the military camp grounds or reservations of the state, together with such buildings and instalations thereon as may be agreed upon, for a period not to exceed the duration of the war or emergency and six months thereafter. In such case the adjutant general may lease for a like period other suitable property for the use of the state quartermaster's department and for camp or maneuver grounds, as may be necessary for the supply and training of the military forces of the state.

[1943 c. 108 s. 21]

190.12 MAY LOAN ARMS TO VETERAN ORGANIZATIONS. The adjutant general in his discretion may issue to any camp of the military organization known as the "Sons of Veterans, U. S. A.," and other organizations composed of veterans of any war, arms and accoutrements owned by the state and not in use. Some member of the organization shall give bond to the state in the sum of at least \$20 for each rifle, conditioned for the return in good order, on demand, of all property so issued. No such issue shall be made, except on requisition of the commanding officer of such organization. Any member of such organization who shall wilfully destroy or injure military property so issued or shall withhold the same for more than five days after its return has been requested, shall be guilty of a misdemeanor.

[1921 c. 506 s. 45] (2439)

190.13 RECORDS OF VETERANS' WAR SERVICE. The adjutant general shall keep compiled, from the original muster rolls in his office, and such additional sources as he can command, 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, the first World War, and subsequent wars, and shall include therein the military history of each man, as may be obtainable. Thereafter, the records shall be placed in suitable metal boxes for safe-keeping, and the compilation so made shall be used in their place for all practical purposes.

[1921 c. 506 s. 47; 1943 c. 108 s. 17] (2441)

190.14, 190.15. [Repealed, 1943 c 108 s 44]

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.

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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.

[1957 c 242 s 1, 2]