WEST VIRGINIA CODE CHAPTER 15 ARTICLE 1

WV Legislature

§15-1-1. Definitions.

When used in articles one, one-a, one-b, one-c, one-d, one-f and one-g of this chapter, unless a different meaning is plainly required by the context:

(a) The term "military forces of the state" shall mean the organized militia, the state retired list, the honorary militia and the state guard, and all other components of the militia of the state which may hereafter be organized.

(b) The term "organized militia" shall mean the West Virginia National Guard, including the army National Guard, the air National Guard and the inactive National Guard, and shall be deemed to include any unit, component, element, headquarters, staff or cadre thereof, as well as any member or members.

(c) "Military personnel of the National Guard" shall mean all the members of the organized militia.

(d) "Military" shall mean army or land, air or air force, navy or naval.

(e) The term "service of the state" or "active service of the state" shall mean active military duty in other than a training status in or with a force of the organized militia or with the Adjutant General's department, upon orders of the Governor.

(f) The term "state duty" shall mean duty in a training status or other duty in the interest of the state and the organized militia.

(g) The term "service of the United States" or "active service of the United States" shall mean active military duty in the Armed Forces of the United States except active duty for training purposes.

(h) The term "officer" or "commissioned officer" shall be deemed to include warrant officers.

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§15-1-2. Commander in chief.

The Governor shall be commander in chief of the military forces of the state, except those which are in the service of the United States.

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§15-1-3. Regulations.

The Governor shall issue regulations for the governance of the military forces of the state which shall have the force and effect of law. Such regulations shall conform to the provisions of this chapter, and as nearly as practicable to the laws and regulations of the United States governing the Armed Forces of the United States and relating to the organization, discipline and training of the organized militia. Regulations in force at the time of the passage of articles 1, 1A to 1G of this chapter, not inconsistent with its provisions, shall remain in force until superseded by new regulations issued hereunder.

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§15-1-4. Active service -- Authority of Governor to require; state duty ordered by Adjutant General.

a. The Governor may order all or any part of the organized militia and the state guard or any other person with their consent to active service of the state and all members of the organized militia and the state guard shall be liable for such service.

b. The Governor may order the organized militia or any part thereof to serve outside the borders of the state and of the United States in order to perform military duty and to participate in parades, review, conferences, encampments, maneuvers, and other training, to participate in military competitions and to attend service schools.

c. The Adjutant General may order the organized militia or any part thereof or any military personnel of the National Guard or any other person with his consent to state duty within or without the state and with or without compensation.

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§15-1-5. Active service -- United States.

When the organized militia, or any part thereof, is called for active service of the United States under the Constitution and laws of the United States, the Governor shall order the same to service, and if the number available is insufficient, the Governor may call for and accept as many volunteers as are required for service in the organized militia and state guard. During the absence of units and organizations of the organized militia in the service of the United States, their state designations shall not be given to new organizations, and all organizations and officers on return from such service shall be given their former standing and rank.

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§15-1-6. Federal law and regulations.

a. The duty of maintaining and governing the military forces of the state not in the service of the United States rests upon the state, subject to Constitutional authority. The purpose of such forces are twofold; national defense and service of the state. Their efficiency for both purposes necessarily depends upon systematic uniformity in organization, composition, arms, equipment, training and discipline with the Armed Forces of the United States and the military forces of other states. Therefore, the Governor shall cause the military forces of the state to conform to all federal laws and regulations applicable to the same, unless the same shall be incompatible with the state purpose of such forces.

b. All matters relating to the organizations, discipline and government of the military forces of the state, not otherwise provided for in this chapter or in regulations, shall be decided by custom, usage and regulations of the Armed Forces of the United States.

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