WEST VIRGINIA CODE CHAPTER 15 ARTICLE 1D

WV Legislature

§15-1D-1. Calling out National Guard by Governor.

In event of war, insurrection, rebellion, invasion, tumult, riot, mob or body of men acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state or the United States, or in case of the imminent danger of the occurrence of any of said events, or in event of public disaster or emergency, the Governor shall have power to order the West Virginia National Guard, or any part thereof, into the active service of the state, and to cause them to perform such duty as he shall deem proper.

WV Legislature

§15-1D-2. Limited emergency.

In time of public disaster or emergency, the Governor may declare a limited emergency in the affected area and designate the commander of the National Guard units called to duty to coordinate and direct the activities of all persons, organizations and agencies participating in the evacuation, safeguarding, relief and rehabilitation of the affected area, delegating to such commander such authority as he deems necessary and expedient in the circumstances. The commander so designated by the Governor shall act for and on behalf of the Governor and take all actions in his name. Nothing contained in this section shall be construed to limit or deny the authority of the Governor to declare martial law.

WV Legislature

§15-1D-3. Use of military force to disperse riots, etc.

Before using any military force in the dispersion of any riot, rout, tumult, mob or unlawful assembly, or combination mentioned in this article, it shall be the duty of the civil authorities present, or if none be present, then of the officer in command of the troops, or some person by him deputed, to command the persons composing such riotous, tumultuous or unlawful assembly or mob to disperse and retire peaceably to their respective abodes and business; but in no case shall it be necessary to use any set or particular form of words in ordering the dispersion of any riotous, tumultuous or unlawful assembly; nor shall any such command be necessary where the officer or person, in order to give it, would necessarily be put in imminent danger of loss of life or great bodily harm, or where such unlawful assembly or mob is engaged in the commission or perpetration of any forcible or atrocious felony, or in assaulting or attacking any civil officer or person lawfully called to aid in the preservation of the peace, or is otherwise engaged in actual violence to persons and property.

WV Legislature

§15-1D-4. Failure to disperse.

Any person or persons composing or taking part in any riot, rout, tumult, mob or lawless combination or assembly mentioned in this article, who, after being duly commanded to disperse, as provided in the preceding section, willfully and intentionally fails to do so as soon as practicable, shall be guilty of a felony, and, on conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than two years.

WV Legislature

§15-1D-5. Power of officers to arrest, disperse or quell persons rioting, etc.

After any person or persons, composing or taking part, or about to take part, in any riot, rout, mob, tumult, or unlawful combination or assembly mentioned in this article shall have been duly commanded to disperse, or when the circumstances are such that no such command is requisite under the provisions of this article, and the civil authority to whom such military force is ordered to report, or if there be no civil authority present, then such military officer acting within the limits provided in his orders shall take such steps for the arrest, dispersion, or quelling of the persons composing or taking part in any such mob, riot, tumult, outbreak, or unlawful combination or assembly mentioned in this article, as may be required, and if, in doing so, any person is killed, wounded, or otherwise injured, or any property injured or destroyed, by the civil authority or officer or member of the National Guard, or other persons lawfully aiding them, such officer, member or person shall be held guiltless.

WV Legislature

§15-1D-6. Assaults on National Guard or persons aiding it.

It shall be unlawful for any person to assault, fire upon, or throw any missile at, against or upon any member or body of the National Guard, or civil officer, or other person lawfully aiding them, when going to, returning from, or assembled for performing any duty under the provisions of this article; and any person so offending shall be guilty of a felony, and, on conviction, shall be imprisoned in the penitentiary for not less than two nor more than five years.

WV Legislature

§15-1D-7. Repelling assault.

If any portion of the National Guard, or any person lawfully aiding them in the performance of any duty, under the provisions of this article, is assaulted, attacked or in imminent danger thereof, the commanding officer of such National Guard need not await any orders from any civil authority but may at once proceed to quell such attack and disperse the attacking parties, and take all other needful steps for the safety of his command.

WV Legislature

§15-1D-8. Duty to retire from unlawful assembly.

Whenever any shot is fired or missile thrown at, against or upon any body of the National Guard, or upon any officer or member thereof, assembling or assembled for the performance of any duty under the provisions of this article, it shall forthwith be the duty of every person in the assembly from which such shot is fired, or missile thrown, to immediately disperse and retire therefrom, without awaiting any order to do so; and any person knowing or having reason to believe that a shot has been so fired, or missile thrown from any assembly of which such person forms a part or with which he is present, and failing without lawful excuse to retire immediately from such assembly, shall be guilty of a misdemeanor; and any person so remaining in such assembly, after being duly commanded to disperse, shall be guilty of a felony and, on conviction shall be imprisoned in the penitentiary not less than one nor more than two years.

WV Legislature

§15-1D-9. National Guard to have right-of-way; exceptions.

Any portion of the National Guard parading or performing any duty according to law shall have the right-of-way in any street or highway through which they may pass: Provided, That the carriage of United States mails and operations of fire engines and fire departments shall not be interfered with thereby.

WV Legislature

§15-1D-10. Regulation of occupancy of streets for passage of National Guard.

Whenever any portion of the National Guard is or has been called out for the performance of any duty under the provisions of this article, it shall be lawful for the commanding officer of such National Guard, if it be deemed advisable in the circumstances of the emergency, to prohibit all persons from occupying or passing on any street, road, or place, or where the National Guard may be for the time being, and otherwise to regulate the passage and occupancy of such streets and places. Any person, after being duly informed of such regulations, who willfully and intentionally without any lawful excuse, attempts to go or remain on such street, road, or place, and fails to depart after being warned to do so, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than $10 nor more than $100, or imprisoned in the county jail not less than ten nor more than sixty days, or both; and in such case the officer in command of the National Guard may forthwith arrest persons so offending and turn them over to some civil authority.

WV Legislature

§15-1D-11. Transportation of officers and men.

The several railroads and other transportation companies in this state shall furnish transportation for all officers and enlisted men in the National Guard, together with the stores, ammunition and equipment, when traveling on duty under orders from competent authority, on request of the officer desiring transportation, which request shall state the number of persons to be carried, and their destination, and for such transportation said companies shall be entitled to receive compensation from the state at the rate specified.

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§15-1D-12. Trespassing upon armories, etc.; interrupting, interfering with, etc., National Guard; regulation of certain sales, gambling, etc., within certain limits of armories, etc.

a. Any person who shall, after due warning, trespass upon any armory, camp, range, or other facility of the National Guard or other place where any force of the National Guard is performing military duty, or who shall in any manner interrupt or molest the discharge of military duties by any member or force of the National Guard, or who shall interrupt or prevent the passage of troops of the National Guard, or who shall insult, by jeer or otherwise, any member of the National Guard, or refuse to obey any lawful order of the military commander, may be placed in arrest by any officer of the force performing such military duty at the place where the offense is committed and delivered to the proper civil authorities.

b. The commanding officer of any force of the National Guard performing military duty in or at any armory, arsenal, camp, range, base or other facility of the National Guard or other place or area where such force is performing duty in the service of the state may prohibit persons from hawking, peddling, vending, selling, or auctioning goods, wares, merchandise, food products or beverages, and may prohibit all gambling, or the sale or use of spirituous beverages, or the establishment or maintenance of a disorderly place, within the limits of such armory, arsenal, camp, range, base or other facility of the National Guard or other place or area where such force is performing duty, or within such limits not exceeding one mile therefrom as he may prescribe.

WV Legislature

§15-1D-13. Regulations while state military forces on duty.

When any portion of the military forces of this state shall be in active service of the state, pursuant to this article, the code of military justice and the general regulations for the government of the Armed Forces of the United States shall be considered in force and regarded as a part of this article until such forces shall be duly relieved from such duty. No punishment under such rules and articles which shall extend to the taking of life shall, in any case, be inflicted except in time of actual war, invasion, or insurrection, declared by proclamation of the Governor to exist and then only after the approval of the Governor of the sentence inflicting such punishment.

WV Legislature

§15-1D-14. When martial law may be declared.

In the event of invasion, insurrection, rebellion or riot, flood or other public disaster or emergency, the Governor, in his discretion, may by proclamation containing such powers as would meet the exigencies of the situation, declare a state of martial law or rule in the towns, cities, districts or counties where such disturbances or emergencies exist.

WV Legislature