WEST VIRGINIA CODE CHAPTER 15 ARTICLE 4

WV Legislature

§15-4-1. Governor authorized to organize and maintain West Virginia state guard.

Whenever any part of the National Guard of this state is in active federal service, the Governor is hereby authorized to organize and maintain within this state during such period, under such regulations as the secretary of defense of the United States may prescribe for discipline in training, such military forces as the Governor may deem necessary to defend this state. Such forces shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the state as shall volunteer for service therein, supplemented, if necessary, by men of the reserve militia enrolled by draft or otherwise as provided by law. Such forces shall be additional to and distinct from the National Guard and shall be known as the "West Virginia state guard": Provided, That any funds appropriated by the Legislature to the Adjutant General for the organization, administration, training and supply of the organized militia may be expended for such purposes with respect to the West Virginia state guard. Such forces shall be uniformed.

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§15-4-2. Rules and regulations.

The Governor is hereby authorized to prescribe rules and regulations not inconsistent with the provisions of this article governing the enlistment, organization, administration, equipment, maintenance, training and discipline of such forces: Provided, That such rules and regulations, insofar as he deems practicable and desirable, shall conform to existing law governing and pertaining to the National Guard and the rules and regulations promulgated thereunder, and shall prohibit the acceptance of gifts, donations, gratuities or anything of value by such forces or by any member of such forces from any individual, firm, association, or corporation by reason of such membership.

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§15-4-3. Pay and allowances.

The pay for officers and enlisted men of the West Virginia state guard for service at camps of instruction, rifle practice, practice marches and maneuvers, or other duties ordered by the Governor, shall be such as are provided in the National Defense Act or amendments thereto. Officers and enlisted men, when employed in the actual service of the state, as defined and provided in this article, beginning on the day they assembled at their armories or other designated places, until the day they have returned thereto and been properly relieved, inclusive, fractional parts of a day counting as a full day, shall receive the same pay and allowances as provided for officers and enlisted men in the West Virginia National Guard.

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§15-4-4. Arms and equipment; use of state armories, etc.

For use of such forces, the Governor is hereby authorized to requisition from the secretary of war such arms and equipment as may be in possession of and can be spared by the war department; and to make available to such forces the facilities of state armories and their equipment and such other state premises and property as may be available.

WV Legislature

§15-4-5. Service limited to state, except as to fresh pursuit; apprehension of persons in another state.

Such forces shall not be required to serve outside the boundaries of this state. Except that any organization, unit or detachment of such forces, 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 the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or apprehend or capture such persons: Provided, That such other state shall have given authority by law for such pursuit by such forces of this state. Any such person who shall be apprehended or captured in such other state by an organization, unit or detachment 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.

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§15-4-6. Pursuit and apprehension of certain persons in this state by military forces of another state.

Any military forces or organization, unit or detachment thereof, 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 such persons and are hereby authorized to 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. This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful, and nothing contained in this section shall be deemed to repeal any of the provisions of the uniform act on the fresh pursuit of criminals.

WV Legislature

§15-4-7. Status of forces and members thereof with regard to federal service.

Nothing in this article shall be construed as authorizing such forces, or any part thereof, to be called, ordered or in any manner drafted as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

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§15-4-8. Civil organizations, etc., not to be enlisted as unit.

No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

WV Legislature

§15-4-9. Disqualifications.

No person shall be commissioned or enlisted in such forces who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this state, or of another state, or of the United States.

WV Legislature

§15-4-10. Oath of officers.

The oath to be taken by officers commissioned in such forces shall be substantially in the form prescribed for officers of the National Guard, substituting the words "West Virginia state guard" where necessary.

WV Legislature

§15-4-11. Term of enlistment; oath of enlisted men.

No person shall be enlisted for more than one year but such enlistment may be renewed. The oath to be taken upon enlistment in such forces shall be substantially in the form prescribed for enlisted men of the National Guard, substituting the words "West Virginia state guard" where necessary.

WV Legislature

§15-4-12. Articles of war to apply as to court-martial, etc.; freedom from arrest; jury duty.

(a) Whenever such forces or any part thereof shall be ordered out for active service the articles of war of the United States applicable to members of the National Guard of this state in relation to courts-martial, their jurisdiction and the limits of punishment and the rules and regulations prescribed thereunder shall be in full force and effect with respect to the West Virginia state guard.

(b) No officer or enlisted man of such forces shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he is ordered to attend for military duty. Every officer and enlisted man of such forces shall, during his service therein, be exempt from service upon any posse comitatus and from jury duty.

WV Legislature

§15-4-13. Citation of article.

This article may be cited as the "West Virginia State Guard Act."

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