

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1278

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H.P. 891

House of Representatives, April 4, 2017

### **An Act To Amend the Military Bureau Laws and Veterans Service Laws**

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Submitted by the Department of Defense, Veterans and Emergency Management pursuant to Joint Rule 204.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative FARRIN of Norridgewock.  
Cosponsored by Senator MASON of Androscoggin and  
Representatives: DILLINGHAM of Oxford, HANINGTON of Lincoln, LUCHINI of  
Ellsworth.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 37-B MRSA §3, sub-§1, ¶D**, as amended by PL 2015, c. 465, Pt. A, §1, is  
3 further amended to read:

4 D. Have the following powers and duties.

5 (1) The Adjutant General shall administer the department subordinate only to the  
6 Governor.

7 (2) The Adjutant General shall establish methods of administration consistent  
8 with the law necessary for the efficient operation of the department.

9 (3) The Adjutant General may prepare a budget for the department.

10 (4) The Adjutant General may transfer personnel from one bureau to another  
11 within the department.

12 (5) The Adjutant General shall supervise the preparation of all state  
13 informational reports required by the federal military establishment.

14 (6) The Adjutant General shall keep an accurate account of expenses incurred  
15 and, in accordance with Title 5, sections 43 to 46, make a full report to the  
16 Governor as to the condition of the military forces, and as to all business  
17 transactions of the Military Bureau, including detailed statements of expenditures  
18 for military purposes.

19 (7) The Adjutant General is responsible for the custody, care and repair of all  
20 military property belonging to or issued to the State for the military forces and  
21 shall dispose of military property belonging to the State that is unserviceable.  
22 The Adjutant General shall account for and deposit the proceeds from that  
23 disposal with the Treasurer of State, who shall credit them to the Capital Repair,  
24 Maintenance, Construction and Acquisition Account of the Military Bureau.

25 (8) The Adjutant General may sell for cash to officers of the state military forces,  
26 for their official use, and to organizations of the state military forces, any military  
27 or naval property that is the property of the State. The Adjutant General shall,  
28 with an annual report, render to the Governor an accurate account of the sales and  
29 deposit the proceeds of the sales with the Treasurer of State, who shall credit  
30 them to the General Fund.

31 (9) The Adjutant General shall represent the state military forces for the purpose  
32 of establishing the relationship between the federal military establishment and the  
33 various state military staff departments.

34 (10) The Adjutant General shall accept, receive and administer federal funds for  
35 and on behalf of the State that are available for military purposes or that would  
36 further the intent and specific purposes of this chapter and chapter 3. The  
37 Adjutant General shall provide the personnel, supplies, services and matching  
38 funds required by a federal cost-sharing arrangement pursuant to 31 United States  
39 Code, Chapters 63 and 65 (2013); 32 United States Code (2013); and National  
40 Guard Regulation 5-1 (2010). The Adjutant General shall receive funds and  
41 property and an accounting for all expenditures and property acquired through

- 1 such a federal cost-sharing arrangement and make returns and reports concerning  
2 those expenditures and that property as required by such a federal cost-sharing  
3 arrangement.
- 4 (11) The Adjutant General shall acquire, construct, operate and maintain military  
5 facilities necessary to comply with this Title and Title 32 of the United States  
6 Code and shall operate and maintain facilities now within or hereafter coming  
7 within the jurisdiction of the Military Bureau.
- 8 (12) The Adjutant General may adopt rules pertaining to compliance with state  
9 and federal contracting requirements, subject to Title 5, chapter 375. Those rules  
10 must provide for approval of contracts by the appropriate state agency.
- 11 (13) The Adjutant General shall allocate and supervise any funds made available  
12 by the Legislature to the Civil Air Patrol.
- 13 (14) The Adjutant General shall report at the beginning of each biennium to the  
14 joint standing committee of the Legislature having jurisdiction over veterans'  
15 affairs on any recommended changes or modifications to the laws governing  
16 veterans' affairs, particularly as those changes or modifications relate to changes  
17 in federal veterans' laws. The report must include information on the status of  
18 communications with the United States Department of Veterans Affairs regarding  
19 the potential health risks to and the potential disabilities of veterans who as  
20 members of the Maine National Guard were exposed to environmental hazards at  
21 the Canadian military support base in Gagetown, New Brunswick, Canada.
- 22 (15) The Adjutant General may receive personal property from the United States  
23 Department of Defense that the Secretary of Defense has determined is suitable  
24 for use by agencies in law enforcement activities, including counter-drug  
25 activities, and in excess of the needs of the Department of Defense pursuant to 10  
26 United States Code, Section 2576a, and transfer ownership of that personal  
27 property to state, county and municipal law enforcement agencies  
28 notwithstanding any other provision of law. The Adjutant General may receive  
29 excess personal property from the United States Department of Defense for use  
30 by the department, notwithstanding any other provision of law.
- 31 (16) The Adjutant General may establish a science, mathematics and technology  
32 education improvement program for schoolchildren known as the STARBASE  
33 Program. The Adjutant General may accept financial assistance and in-kind  
34 assistance, advances, grants, gifts, contributions and other forms of financial  
35 assistance from the Federal Government or other public body or from other  
36 sources, public or private, to implement the STARBASE Program. The Adjutant  
37 General may employ a director and other employees, permanent or temporary, to  
38 operate the STARBASE Program.
- 39 (17) The Adjutant General shall establish a system, to be administered by the  
40 Director of the Bureau of Maine Veterans' Services, to express formally  
41 condolence and appreciation to the closest surviving family members of members  
42 of the United States Armed Forces who, since September 11, 2001, are killed in  
43 action or die as a consequence of injuries that result in the award of a Purple  
44 Heart medal. In accordance with the existing criteria of the department for the

1           awarding of gold star medals, this system must provide for the Adjutant General  
2           to issue up to 3 gold star medals to family members who reside in the State, one  
3           to the spouse of the deceased service member and one to the parents of the  
4           service member. If the parents of the service member are divorced, the Adjutant  
5           General may issue one medal to each parent. If the service member has no  
6           surviving spouse or parents or if they live outside of the State, the Adjutant  
7           General may issue a gold star medal to the service member's next of kin, as  
8           reported to the department, who resides in the State.

9           (18) The Adjutant General may establish a National Guard Youth Challenge  
10          Program consistent with 32 United States Code, Section 509 (1990). The  
11          Adjutant General may accept financial assistance from the Federal Government  
12          or other public body or from other sources, public and private, to implement the  
13          National Guard Youth Challenge Program. The Adjutant General may employ a  
14          director and other employees, permanent or temporary, to operate the program.

15          (19) The Adjutant General may execute cooperative agreements for purposes  
16          described or defined by this Title and other arrangements necessary to operate the  
17          department.

18          (20) The Adjutant General shall act as the Governor's homeland security advisor.

19          (21) The Adjutant General shall implement a program to identify residents of the  
20          State who are not considered veterans but are military retirees or former members  
21          of the Maine Army National Guard or Maine Air National Guard who  
22          successfully completed service.

23          (22) The Adjutant General may negotiate and execute agreements to provide  
24          state military forces to or accept military forces from other states in support of  
25          federally funded National Guard missions.

26          **Sec. 2. 37-B MRSA §102, sub-§1, ¶A**, as amended by PL 2003, c. 342, §2, is  
27          further amended to read:

28            A. The Maine Army National Guard and the Maine Air National Guard, referred to  
29            in this Title as the "National Guard," when either or both are not in federal service  
30            and state military forces provided under section 3, subsection 1, paragraph D,  
31            subparagraph (22), but not the Maine Military Authority; and

32          **Sec. 3. 37-B MRSA §152**, as amended by PL 2015, c. 465, Pt. D, §1, is further  
33          amended to read:

34          **§152. Armory Rental Fund; authority to rent armories, readiness centers and other**  
35          **real property**

36            **1. Fund established.** The Armory Rental Fund is established in the Military Bureau  
37            as a nonlapsing fund to assist in defraying the operation and maintenance expenses of the  
38            Military Bureau's state-owned facilities. Funds in the Armory Rental Fund are in  
39            addition to appropriations for these purposes made to the Military Fund.

40            **2. Rental proceeds.** Except as provided in section 353-A, rental proceeds from the  
41            rental of armories, readiness centers and other real property under this section must be

1 paid into the State Treasury and credited to the Armory Rental Fund to be used for  
2 operation and maintenance expenses at the various state-owned facilities of the Military  
3 Bureau and for pay and allowances for members called to active state service under  
4 section 181-A, subsection 4. Rental proceeds credited to the Armory Rental Fund are in  
5 addition to the appropriations made for operation and maintenance expenses included for  
6 that purpose in the Military Fund.

7 **3. Waiver of rental fees.** The Adjutant General or the Adjutant General's designee  
8 may waive rental fees under this section for certain youth and charitable organizations  
9 under 32 United States Code, Section 508 or as otherwise designated by the Adjutant  
10 General.

11 **Sec. 4. 37-B MRSA §153,** as enacted by PL 1995, c. 684, §2, is amended to read:

12 **§153. Authority to rent armories, readiness centers and other real property**

13 The Military Bureau may rent armories, readiness centers and other real property for  
14 activities that do not conflict with the military training mission.

15 **Sec. 5. 37-B MRSA §190** is enacted to read:

16 **§190. State military provost marshal; security**

17 **1. Appointment of a provost marshal.** The Adjutant General may appoint a  
18 provost marshal to oversee security at National Guard military facilities and real property  
19 consistent with federal regulations governing similar federally owned facilities located in  
20 Maine.

21 **2. Designation of military facilities.** For purposes of this section, the Adjutant  
22 General may designate all or portions of department facilities or real property as military  
23 facilities.

24 **3. Funding.** Modifications of facilities, protocols or procedures or actions otherwise  
25 authorized by this section are limited to those that are without cost or are federally funded  
26 either directly or indirectly through a cooperative agreement.

27 **Sec. 6. 37-B MRSA §505, sub-§2, ¶A,** as amended by PL 2007, c. 521, §3, is  
28 further amended to read:

29 A. As used in this subsection, unless the context otherwise indicates, the following  
30 terms have the following meanings.

31 (1) "Child" means a natural child whose mother or father is or was a veteran or a  
32 child who was adopted prior to turning 18 years of age and whose adoptive  
33 mother or father is or was a veteran and who:

34 (a) Is at least 16 years of age;

35 (b) Has graduated from high school; and

36 (c) Enrolled in a degree program and was awarded benefits under this  
37 subsection prior to the child's 22nd birthday. If the child is unable to enroll

1 in a degree program prior to turning 22 years of age due to service in the  
2 United States Armed Forces, then the child may apply to begin this benefit  
3 until reaching 26 years of age. Other requirements must be met as described  
4 in paragraph F.

5 "~~Child~~" ~~also means~~ includes a stepchild ~~who is a member of a veteran's~~  
6 ~~household either at the time of application or, in the event of the veteran's death,~~  
7 ~~at the time of death, and who continues as a member of the household after the~~  
8 ~~death of the veteran. At least 5 years must have elapsed since the veteran married~~  
9 ~~the parent of the stepchild before the stepchild is eligible for educational benefits,~~  
10 ~~and the biological parent of the stepchild must reside in the veteran's household~~  
11 ~~while the stepchild receives educational benefits~~ whose parent is married to an  
12 eligible veteran for at least 5 years and remains married to the veteran during the  
13 period for which benefits are received.

14 (2) "Spouse" means the person currently legally married to a living veteran or  
15 the unremarried widow or widower of a deceased veteran, not previously  
16 divorced from that veteran.

17 Awards under the educational benefits program are authorized to provide benefits  
18 to only one spouse per veteran.

19 (3) "Veteran" means any person who served in the military or naval forces of the  
20 United States and entered the service from this State or has been a resident of this  
21 State for 5 years immediately preceding application for aid and, if living,  
22 continues to reside in this State throughout the duration of benefits administered  
23 under the educational benefits program and who:

24 (a) Has a total permanent disability resulting from a service-connected  
25 disability as a result of service;

26 (b) Was killed in action;

27 (c) Died from a service-connected disability as a result of service;

28 (d) At the time of death was totally and permanently disabled due to service-  
29 connected disability, but whose death was not related to the service-  
30 connected disability; or

31 (e) Is a member of the Armed Forces on active duty who has been listed for  
32 more than 90 days as missing in action, captured or forcibly detained or  
33 interned in the line of duty by a foreign government or power.

34 The continuous residency requirement of this subparagraph does not apply to a  
35 person who is receiving educational benefits under this chapter on or before  
36 January 1, 2006.

37 **Sec. 7. 37-B MRSA §508**, as amended by PL 2013, c. 569, §4, is further amended  
38 by adding at the end a new paragraph to read:

39 A veteran service officer may not knowingly present or prosecute a fraudulent claim  
40 against the United States or knowingly provide false information to the United States;  
41 demand or accept unlawful compensation for preparing, presenting or prosecuting a claim

1 or advising or consulting concerning a claim; or knowingly present to the United States  
2 Department of Veterans Affairs a frivolous claim, issue or argument. A claim, issue or  
3 argument is frivolous if the veteran service officer is unable to make a good faith  
4 argument on the merits of the position taken or to support the position taken by a good  
5 faith argument for an extension, modification or reversal of existing law.

6

## SUMMARY

7 This bill allows the Adjutant General to provide to or accept military forces from  
8 other states in support of federally funded National Guard missions. It provides the  
9 Adjutant General the authority to appoint a provost marshal to oversee security at  
10 National Guard military facilities and certain real property. It allows the Military Bureau  
11 to rent its readiness centers and other real property in addition to armories and allows the  
12 Adjutant General to waive fees for certain rentals. It changes the description of a  
13 stepchild who is eligible to receive certain educational benefits. It prohibits a veteran  
14 service officer from knowingly presenting or prosecuting a fraudulent or frivolous claim.