

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

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Augusta, Maine
2017

CHAPTER 108
H.P. 891 - L.D. 1278

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

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

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

D. Have the following powers and duties.

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

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

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

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

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

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

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

(8) The Adjutant General may sell for cash to officers of the state military forces, for their official use, and to organizations of the state military forces, any military or naval property that is the property of the State. The Adjutant General shall, with an annual report, render to the Governor an accurate account of the sales

and deposit the proceeds of the sales with the Treasurer of State, who shall credit them to the General Fund.

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

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

(11) The Adjutant General shall acquire, construct, operate and maintain military facilities necessary to comply with this Title and Title 32 of the United States Code and shall operate and maintain facilities now within or hereafter coming within the jurisdiction of the Military Bureau.

(12) The Adjutant General may adopt rules pertaining to compliance with state and federal contracting requirements, subject to Title 5, chapter 375. Those rules must provide for approval of contracts by the appropriate state agency.

(13) The Adjutant General shall allocate and supervise any funds made available by the Legislature to the Civil Air Patrol.

(14) The Adjutant General shall report at the beginning of each biennium to the joint standing committee of the Legislature having jurisdiction over veterans' affairs on any recommended changes or modifications to the laws governing veterans' affairs, particularly as those changes or modifications relate to changes in federal veterans' laws. The report must include information on the status of communications with the United States Department of Veterans Affairs regarding the potential health risks to and the potential disabilities of veterans who as members of the

Maine National Guard were exposed to environmental hazards at the Canadian military support base in Gagetown, New Brunswick, Canada.

(15) The Adjutant General may receive personal property from the United States Department of Defense that the Secretary of Defense has determined is suitable for use by agencies in law enforcement activities, including counter-drug activities, and in excess of the needs of the Department of Defense pursuant to 10 United States Code, Section 2576a, and transfer ownership of that personal property to state, county and municipal law enforcement agencies notwithstanding any other provision of law. The Adjutant General may receive excess personal property from the United States Department of Defense for use by the department, notwithstanding any other provision of law.

(16) The Adjutant General may establish a science, mathematics and technology education improvement program for schoolchildren known as the STARBASE Program. The Adjutant General may accept financial assistance and in-kind assistance, advances, grants, gifts, contributions and other forms of financial assistance from the Federal Government or other public body or from other sources, public or private, to implement the STARBASE Program. The Adjutant General may employ a director and other employees, permanent or temporary, to operate the STARBASE Program.

(17) The Adjutant General shall establish a system, to be administered by the Director of the Bureau of Maine Veterans' Services, to express formally condolence and appreciation to the closest surviving family members of members of the United States Armed Forces who, since September 11, 2001, are killed in action or die as a consequence of injuries that result in the award of a Purple Heart medal. In accordance with the existing criteria of the department for the awarding of gold star medals, this system must provide for the Adjutant General to issue up to 3 gold star medals to family members who reside in the State, one to the spouse of the deceased service member and one to the parents of the service member. If the parents of the service member are divorced, the Adjutant General may issue one medal to each parent. If the service member has no surviving spouse or parents or if they live outside of the State, the Adjutant General may issue a gold star medal to the service member's next of kin, as re-

ported to the department, who resides in the State.

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

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

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

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

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

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

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

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

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

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

2. Rental proceeds. Except as provided in section 353-A, rental proceeds from the rental of armor-

ies, readiness centers and other real property under this section must be paid into the State Treasury and credited to the Armory Rental Fund to be used for operation and maintenance expenses at the various state-owned facilities of the Military Bureau and for pay and allowances for members called to active state service under section 181-A, subsection 5. Rental proceeds credited to the Armory Rental Fund are in addition to the appropriations made for operation and maintenance expenses included for that purpose in the Military Fund.

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

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

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

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

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

§190. Security at National Guard military facilities and real property of the department

This section governs the provision of security at National Guard military facilities and real property of the department.

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

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

3. Funding. Modifications of National Guard military facilities or real property of the department or changes to protocols or procedures or actions to provide security in a manner consistent with federal regulations governing similar federally owned facilities in the State are limited to those that are without cost or are federally funded either directly or indirectly through a cooperative agreement.

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

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

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

- (a) Is at least 16 years of age;
- (b) Has graduated from high school; and
- (c) Enrolled in a degree program and was awarded benefits under this subsection prior to the child's 22nd birthday. If the child is unable to enroll in a degree program prior to turning 22 years of age due to service in the United States Armed Forces, then the child may apply to begin this benefit until reaching 26 years of age. Other requirements must be met as described in paragraph F.

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

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

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

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

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

- (b) Was killed in action;
- (c) Died from a service-connected disability as a result of service;
- (d) At the time of death was totally and permanently disabled due to service-connected disability, but whose death was not related to the service-connected disability; or
- (e) Is a member of the Armed Forces on active duty who has been listed for more than 90 days as missing in action, captured or forcibly detained or interned in the line of duty by a foreign government or power.

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

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

A veteran service officer may not knowingly present or prosecute a fraudulent claim against the United States or knowingly provide false information to the United States; demand or accept unlawful compensation for preparing, presenting or prosecuting a claim or advising or consulting concerning a claim; or knowingly present to the United States Department of Veterans Affairs a frivolous claim, issue or argument. A claim, issue or argument is frivolous if the veteran service officer is unable to make a good faith argument on the merits of the position taken or to support the position taken by a good faith argument for an extension, modification or reversal of existing law.

See title page for effective date.

CHAPTER 109 H.P. 918 - L.D. 1324

An Act To Support Innovation, Entrepreneurship and Maine's Economic Future

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

Sec. 1. 5 MRSA §15301, sub-§§1-A to 1-C are enacted to read:

1-A. Accelerator. "Accelerator" means a program that supports entrepreneurs by providing training, business assistance and mentors in a time-limited training program.

1-B. Entrepreneurial support system. "Entrepreneurial support system" means a network of or-

ganizations and programs in the State that facilitate entrepreneurial growth including capital providers, chambers of commerce, local governments, economic development organizations, universities, incubators and accelerators.

1-C. Incubator. "Incubator" means a program that supports entrepreneurs by providing training, business assistance and mentors and office, manufacturing or laboratory space.

Sec. 2. 5 MRSA §15301, sub-§2-A is enacted to read:

2-A. Technology transfer. "Technology transfer" means the disclosure, protection and licensing of intellectual property including patents, trademarks, copyrights and trade secrets.

Sec. 3. 5 MRSA §15303, sub-§6, ¶E, as enacted by PL 1999, c. 401, Pt. AAA, §3, is amended to read:

E. Shall cooperate with the Department of Economic and Community Development, ~~the Maine Science and Technology Foundation~~, the Maine Manufacturing Extension Program Partnership, the University of Maine System and others in their efforts to ensure that a complementary system of support services, including, as needed and appropriate, incubators, business assistance, technology transfer, market research, patent research and similar services, is in place and available to companies and research laboratories receiving funds from the institute.

Sec. 4. 5 MRSA §15303, sub-§7, as enacted by PL 1999, c. 401, Pt. AAA, §3, is amended to read:

7. Other duties and powers. The institute shall do all things necessary or convenient to carry out the lawful purposes of the institute under this chapter: and may establish and operate programs, including, but not limited to, the following:

A. A technology center pursuant to section 15322;

B. A program to promote and encourage the establishment, maintenance and operation of incubators and accelerators in the entrepreneurial support system by awarding grants and other forms of financial assistance to companies, nonprofit entities, economic development agencies, educational institutions, government agencies or other entities for programs that promote an entrepreneurial business environment or train or educate entrepreneurs. Support for a program under this paragraph must be awarded on a competitive basis, with effectiveness and effect on Maine's economy as the primary criteria. The administrative costs of a program under this paragraph are not management and related operating costs of the institute under section 15305;