

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

have the right of way over all public ways and roads and the governor is granted the right to close or restrict traffic on all roads in any area.

Whoever shall fail to give the right of way to men, vehicles and equipment required to respond to emergency calls under this chapter, or whoever shall enter upon roads which have been closed to traffic under the provisions of this chapter, shall, upon conviction, be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. The district court shall have jurisdiction of all such offenses. (1949, c. 298, 1963, c. 402, § 3.)

Effect of amendment.—The 1963 amendment substituted “The district court” for “Municipal courts” at the beginning of the last sentence of the section.

Application of amending act. — Section 280 of c. 402, P. L. 1963, provides that the

act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 19-A. Penalty.—Every officer of a political subdivision of this state who, having administrative responsibilities under the provisions of this chapter, willfully violates any of the provisions of this chapter shall be punished by a fine of \$20. (1955, c. 435, § 5.)

Chapter 14.

The Military Law.

Sections 69 to 84-A. General Provisions.

Emergency Powers of Governor.

Sec. 2. Active service national guard or other authorized state military or naval forces.

In case of a sudden and unexpected tumult, riot, mob or body of men acting together by force with intent to commit felony or to offer violence to persons or property, or by force and violence to break and resist the laws of the state or the United States, or of imminent danger thereof, a justice of the supreme judicial court or of the superior court or the sheriff of a county may call for aid upon a commanding officer of the national guard or other authorized state military or naval forces, and such call shall be in writing. The commanding officer upon whom the call is made shall order out in aid of the civil authorities the military or naval force or any part thereof under his command, and shall make an immediate report of the case to the adjutant general and to his immediate commanding officer. He shall receive only general directions from the civil authority requesting the aid, and shall remain strictly responsible to his military superior for the manner in which the troops shall be used to accomplish the desired end.

In the event of an emergency so imminent as to require immediate action the senior officer of a command may, upon request in writing of the mayor of a city or the selectmen of a town, order out for the defense or protection of the community the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the adjutant general and to his immediate commanding officer. (R. S. c. 12, § 2. 1959, c. 378, § 1. 1961, c. 417, § 9.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, substituted “selectmen” for “selection” in the last paragraph.

The 1961 amendment deleted “in term time or vacation” following “superior

court” in the first sentence of the second paragraph.

As the rest of the section was not affected by the amendments, only the second and third paragraphs are set out.

Staff.

Sec. 9. Staff.—The staff of the commander in chief shall consist of the adjutant general, who shall be ex officio chief of staff, quartermaster general and paymaster general with grade not to exceed that of major general; the senior officer on duty with each of the staff departments; and such aides-de-camp not to exceed 11 in number, one of whom may be a naval aide with rank of captain and one of whom may be an air force aide, as may be appointed by the governor. No person shall be appointed as adjutant general or assistant adjutant general unless he holds or has held a commission of at least field grade or equivalent in the organized militia of the state or the armed forces of the United States, or of a reserve component thereof, and shall have served not less than 5 years in one or more of such services and shall meet the criteria for federal recognition in the grade to which appointed as are prescribed by the regulations governing the national guard of the United States. All other staff officers, except in the medical department and chaplains, must be at the time of their appointment commissioned officers of the Maine national guard, or of the Maine state guard, or other authorized state military or naval forces, or of the officers' reserve corps of the army or air force of the United States, or on the retired list of the army or air force of the United States and residents of the state of Maine, on the active or retired list of or above the grade of captain but no staff officer shall be appointed from the retired list who shall have had less than 5 years of service in the Maine national guard, or in the officers' reserve corps of the army of the United States, or in the regular army of the United States the last year of which shall be within 5 years immediately preceding the appointment.

(1963, c. 117; c. 382, § 1.)

Effect of amendments.—The first 1963 amendment increased the number of aides-de-camp in the first sentence of the first paragraph from 9 to 11. The second 1963 amendment substituted "grade not to exceed that of major general" for "rank of brigadier general" near the beginning of the first sentence, added the second sentence and added "other" before "staff officers" in the third sentence of the first paragraph.

As the rest of the section was not affected by the amendments, it is not set out.

Effective date.—P. L. 1963, c. 382, § 4, makes the act effective on January 1, 1964, and provides that the first appointment under this section shall be made within 10 days after January 1, 1964, which appointment date shall become the anniversary date for future appointments under this section.

Adjutant General.

Sec. 11. Adjutant general, rank, powers and duties; salary; assistant.—The adjutant general of the state shall be appointed by the governor, shall have the rank not to exceed that of major general, and shall hold office for a term of 4 years and until his successor is appointed and qualified. He shall be ex officio, chief of staff, quartermaster general and paymaster general of the state. For the purpose of establishing the relation between the national military establishments and the various staff departments of the state, he shall be the chief of said departments; and the requisitions, purchases and issues to be made by the senior officer on duty in certain of said departments, as prescribed, shall be made by them pursuant and in obedience to his directions and instructions.

He shall control the military department subordinate only to the governor, and may adopt such methods of administration, not inconsistent with the laws, regulations and customs of the service of the national military establishment, so far as the same may be applicable, as he may deem necessary to render the department efficient.

He shall superintend the preparation of all returns, reports, plans and estimates required of the state by the national military establishment; and, on or before the 30th day of June of each year, shall make a report to the governor of the strength and condition of the militia and of the business transactions of the department, including a detailed statement of expenditure for all military purposes.

He shall be responsible for the care, preservation and repair of all military property belonging or issued to the state for the arming and equipping of the militia; and he shall dispose of all military property of the state found unserviceable after a proper inspection, account for the proceeds, and deposit the same into the state treasury, to the credit of the military fund.

He shall cause to be turned in, in such manner as the national military establishment may require, such ordnance, accoutrements and equipments belonging to the United States and receive in substitution therefor such prescribed regulation ordnance and equipment, as may be necessary to conform to the standard required by the laws and regulations of the United States.

He shall, under the direction of the governor, prepare and submit to the state purchasing agent requisitions for, and make issues of, such military property as is necessary to equip the organizations of the national guard or other state military or naval forces according to the standard that is now or may be hereafter prescribed by the laws and regulations of the United States; he shall approve all issues; but no such property shall be issued, or otherwise disposed of, to persons or organizations other than those of the national guard or other state military or naval forces.

He shall keep a just and true account of all expenses necessarily incurred, including pay, transportation and subsistence of officers and enlisted men of the national guard or of any other authorized state military or naval forces, and of all military property; and shall render annually to the governor a statement in detail showing the deposition of all clothing, ordnance, arms, ammunition and other military property on hand and issued.

He may sell for cash to officers of the national guard or other authorized state military or naval forces, for their official use, and to organizations of the national guard or other authorized state military or naval forces, any military or naval property which is the property of the state; and he shall, with his annual report, render to the governor a true account of the sales so made, and shall deposit the proceeds of the same in the state treasury to the credit of the military fund.

The adjutant general shall receive an annual salary of \$10,000. He shall receive no other fee, emolument or perquisite.

The adjutant general may appoint, subject to the approval of the governor, an officer as assistant adjutant general, who shall assist the adjutant general in the performance of his duties, and who shall, whenever the adjutant general is absent or unable from any cause to perform his duties, or whenever a vacancy shall exist in the office of adjutant general, perform the duties of the adjutant general during such absence and disability, and who, in the case of vacancy in the said office, shall be acting adjutant general until such vacancy shall have been filled by the commander in chief, as provided for by law.

Subject to the approval of the governor, the adjutant general may appoint a property officer and a plans and training officer both of whom shall meet the requirements for appointment of staff officers provided in section 9, hold office at the pleasure of the adjutant general and receive salaries to be fixed by the governor and council.

The property officer shall perform such duties relative to the care, preservation and repair of military property belonging or issued to the state as the adjutant general may from time to time direct and shall receipt and account for all property allotted to his custody and make such returns and reports concerning the same as may be required by the adjutant general. He shall give a good and sufficient bond to the state in an amount to be determined by the governor for the faithful performance of his duties and for the safekeeping and proper distribution of all property entrusted to his care.

The plans and training officer shall perform such duties relative to the instruction and training of the national guard or other state military or naval forces as the adjutant general may from time to time direct and he shall make such returns and reports concerning the same as may be required by the adjutant general. (R.

S. c. 12, § 12. 1945, c. 363. 1947, c. 388. 1949, c. 326, §§ 6, 7. 1951, c. 161; c. 412, § 2. 1953, c. 308, § 7. 1955, c. 405, § 5; c. 473, § 2. 1957, c. 418, § 2. 1959, c. 361, § 2. 1963, c. 382, §§ 2, 3.)

Effect of amendments. — The first 1955 amendment inserted the provision authorizing promotion of the adjutant general to major general and made certain other changes of a formal nature in the first paragraph. The second 1955 amendment increased the annual salary of the adjutant general from \$7,000 to \$8,000. The 1957 amendment, effective July 1, 1957, increased his annual salary from \$8,000 to \$9,000 and carried appropriations for fiscal years ending in 1958 and 1959.

The 1959 amendment substituted the figures "\$9,000" for the figures "\$10,000" in the ninth paragraph.

The 1963 amendment, effective January 1, 1964, rewrote the first sentence of the first paragraph and deleted "who shall

meet the same requirements as officers for appointment to the staff as provided for in section 9" preceding "as assistant adjutant general" in the first sentence of the tenth paragraph.

Editor's note. — The last paragraph of P. L. 1959, c. 361, § 2, amending this section, reads as follows: "(There is hereby appropriated from the General Fund the sum of \$867 for the fiscal year ending June 30, 1960 and \$1,000 for the fiscal year ending June 30, 1961 to carry out the purposes of this section.)"

Effective date. — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: "The provisions of this act shall become effective for the week ending August 22, 1959."

State Military Defense Commission.

Sec. 17. State military defense commission.—The state military defense commission, as heretofore established, shall consist of 8 members. The governor and adjutant general and their successors shall be ex officio members during their respective terms of office. The governor for the time being shall be the chairman. The other 6 members who shall be citizens of the state shall be appointed by the governor, as follows: 2 for a term of 3 years annually. In the case of any vacancy caused by death, resignation or otherwise, the governor shall appoint a citizen for the unexpired term. It shall be the duty of the commission to exercise general supervision and control over all armories, drill rooms, headquarters offices, stables and state owned or controlled realty used for military purposes, to consult and cooperate with the municipal authorities and to devise effective means of obtaining and maintaining such armories, and to fix, subject to the approval of the governor, the compensation to be allowed to the municipalities as rent for them; they shall have the power, after consulting and hearing the responsible municipal officers, to determine the administrative question of military suitability and adequate maintenance of all armories, drill rooms, offices, headquarters offices and stables, and it shall be their duty to notify the responsible officers of all deficiencies in these respects, and should such officers fail, refuse or neglect to take effective measures for providing such suitable buildings and their maintenance, the chairman of the commission shall initiate the prosecution prescribed by section 18. The commission is authorized where towns or municipalities have been relieved from compliance with the provisions of this section to provide armories, target ranges or stables by reason of any agreement or agreements entered into between such towns or cities and the state of Maine, to hire or lease suitable buildings for drill halls, quarters, headquarters offices or stables as may be necessary to adequately house the national guard. The commission is further authorized and directed to cooperate with the federal government or municipalities in establishing and coordinating national defense in this state, especially in the providing of equipment, training, facilities, suitable quarters for troops and supplies, and buildings and lands for military purposes, including construction and expansion of armories and other facilities for joint use by the national guard and another reserve component or other reserve components of the armed forces of the United States. The commission may acquire real property by right of eminent domain in the manner prescribed by law for the taking of land for highway purposes, and both real

and personal property by purchase, gift or otherwise, for the purpose of construction or maintenance of armories, airports, shipyards and other military facilities, including the building or improvement and maintenance of railroads or roads necessary for the more efficient use of such facilities, for military purposes and the procuring of equipment and supplies for military purposes. The members of the commission shall be reimbursed for their actual expenses incurred in the performance of their duties. The judge advocate shall be the legal adviser of the commission. (R. S. c. 12, § 24. 1949, c. 326, § 10. 1961, c. 213, § 1.)

Effect of amendment.—The 1961 amendment added all of the eighth sentence of this section following “military purposes.”

Sec. 18. Drill rooms, offices, armories, stables, etc.; duty of municipal officers to provide use of same; erection of armories.—The municipal officers shall provide and maintain for each unit of the national guard, or other state military or naval forces located within the limits of their municipality, armories and other necessary buildings, the suitability of which shall be determined by the state military defense commission.

After consulting with the municipal officers, the state military defense commission shall fix a reasonable compensation, subject to the approval of the governor to be paid as rent to the municipality providing and maintaining the buildings. This compensation shall be paid by the state out of the appropriation for armory rental. The buildings shall be used exclusively for military purposes, unless otherwise authorized by the general regulations prescribed by the state military defense commission, or by special authority of the chairman of the commission after written application by the municipal officers, and may be jointly used by the national guard and another reserve component or other reserve components of the armed forces of the United States.

The governor may accept, in the name of the state, donations of real estate and personal property to be used for military purposes by the national guard, or other state military or naval forces, upon such conditions as the donors may prescribe. The governor may prescribe further regulations pertaining to property so donated. The state military defense commission may approve for payment from the appropriation for armory rentals necessary sums for the maintenance and operation of the property.

Whenever the military fund is sufficient the state military defense commission may, with the approval of the governor, erect armories and other necessary buildings upon land donated to the state for that purpose.

When a city or town constructs armories and other necessary buildings for the use of the national guard or other state military or naval forces, the state shall reimburse the city or town for $\frac{1}{2}$ of each installment as it becomes due the contractor where the following conditions are observed:

I. The city or town shall deposit with the treasurer of state a recorded deed conveying to the state clear title to all the real estate involved.

II. The state military defense commission shall certify in writing to the treasurer of state that an installment is due.

III. The state contribution shall not exceed a total of \$50,000 to each city or town.

IV. Not more than 3 such armory projects shall be erected biennially.

The municipal officers shall provide target ranges for units of the national guard, or other state military or naval forces, located within the limits of their municipality, except where ranges are provided from the funds appropriated for the purpose by the federal government. The municipal officers shall maintain the target ranges in good condition regardless of the method by which they were obtained. The suitability of target ranges shall be determined by the senior officer in the ordnance department of the national guard, or other state military

or naval force, and approved by the adjutant general. These target ranges shall be open for the use of members of the national guard, or other state military or naval forces, at all times, subject to the approval of the adjutant general.

The legislative body of a municipality may raise money for purchasing, leasing, constructing and maintaining, or may accept by gift or otherwise, real estate and personal property to be used for armories, other necessary buildings, and target ranges for units of the national guard, or other state military and naval forces, located in the municipality.

To carry out the provisions of this section there shall be a biennial appropriation known as the military fund, from which payment is to be made by the treasurer of state upon vouchers issued by the state military defense commission to the state controller.

Any municipal officer who fails to take effective measures for providing and maintaining suitable armories, other necessary buildings, and target ranges as prescribed by this section, or who uses the buildings without authority, or who abuses the authority granted is guilty of a misdemeanor. He shall be prosecuted by complaint or indictment before a court of competent jurisdiction and upon conviction shall be punished by a fine of not less than \$100 nor more than \$400, or by imprisonment for not less than 3 months nor more than 6 months, or both. Any fine imposed by the authority of this section shall be paid into the state treasury and credited to the military fund.

All real estate and personal property owned or leased by the state, by any municipality, or by any organization of the state military or naval forces, and used for military purposes is exempt from all taxation during the period of such ownership or lease and use. (R. S. c. 12, § 25. 1953, c. 308, § 8. 1957, c. 405, § 4. 1961, c. 213, § 2.)

Effect of amendments. — The 1957 amendment rewrote this section.

The 1961 amendment substituted "used exclusively for military purposes" for "held for the exclusive use of the national

guard, or other state military or naval forces" in the last sentence of the second paragraph and added at the end of that sentence the language beginning with the words "and may be".

Uniform and Equipment.

Sec. 44. Uniform of commissioned officers; exemption from attachment and distress.

The clothes, arms, military outfit and accoutrements furnished by or through the state to a member of the active militia and the uniforms, arms and equipment required of commissioned officers and warrant officers shall not be subject to any civil action, distress, execution or sale for debt or payment of taxes. (R. S. c. 12, § 50. 1949, c. 326, § 19. 1951, c. 266, § 2. 1961, c. 417, § 10.)

Effect of amendment.—The 1961 amendment substituted "civil action" for "suit" near the end of the last paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 45. Uniform not to be worn by unauthorized persons.—It shall be unlawful for any person not an officer or enlisted man of the United States army, air force, navy, marine corps or the national guard of the United States and the state of Maine, to wear the duly prescribed uniform of the United States army, air force, navy, marine corps or national guard, or any distinctive part of such uniform, or a uniform any part of which is similar to a distinctive part of the duly prescribed uniform of the United States army, air force, navy, marine corps or national guard; provided that the foregoing provisions shall not be construed so as to prevent such persons as may be authorized by the laws and regulations of the United States from wearing such uniforms as they may be authorized to wear under the above-mentioned laws and regulations. Provided further, that the term "distinctive part of the uniform" in this section shall be

construed to mean such parts of the uniform as may be at this time or shall be hereafter designated as "distinctive" by the regulations of the national military establishment. Any person who offends against the provisions of this section shall, on conviction, be punished by a fine of not more than \$300, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. The district court shall have original and concurrent jurisdiction with the superior court in all prosecutions for the violations of this section. (R. S. c. 12, § 51. 1947, c. 253, § 2. 1949, c. 326, § 20. 1963, c. 402, § 4.)

Effect of amendment.—The 1963 amendment substituted "The district court" for "Trial justices and municipal courts within their counties" at the beginning of the last sentence of the section and eliminated "of the provisions" following "violations" near the end of that sentence.

Application of amending act. — Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

General Provisions.

Sec. 70. Exemption from arrest.

No person shall be arrested in a civil action, on mesne process, or execution, or on a warrant for taxes, on the day of annual Thanksgiving, the 19th day of April, the 30th day of May, the 4th day of July, the 1st Monday of September, Veterans Day, November 11th or Christmas. On the day of any military training, inspection, review or election, no officer or soldier required by law to attend the same shall be arrested on any such processes. (R. S. c. 12, § 73. 1957, c. 397, § 7.)

Effect of amendment. — The 1957 amendment made the last paragraph into two sentences and inserted "Veterans Day" for "Armistice Day" in such para-

graph. As the first paragraph was not changed by the amendment, it is not set out.

Sec. 84-A. Sale or purchase of military decorations prohibited.—It shall be unlawful for any person to expose for sale, offer for sale, sell, pawn or pledge, or for any person to buy, purchase or loan money on any military badge, button, decoration or other insignia issued under the regulations of the army, air force, navy or marine corps of the United States or the national guard. Whoever violates this section shall be punished by a fine of not more than \$20, or by imprisonment for not more than 30 days, or by both. (1963, c. 219.)

Maine State Guard.

Sec. 89. Authority and name.—The governor is authorized to organize and maintain within this state in time of peace, war or other emergency, under such regulations as the secretary of the army of the United States may prescribe for the organization, standard of training, instruction and discipline, such military forces distinct from the national guard and the organized militia as the governor, as commander in chief, may deem necessary to defend this state and protect its sovereignty. Such forces shall be known as the Maine state guard and they shall be uniformed at the expense of the state.

Such forces shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the state and such other able-bodied men who have or shall have declared their intention to become citizens of the United States as shall volunteer therein, who shall be more than 17 years of age. The restrictions as to citizenship shall not apply to soldiers and sailors who have previously served honestly and faithfully in the United States army, air force, navy, marine corps, the organized militia or the national guard. Youths not less than 16 years of age may be enrolled if written consent thereto is given by parents or guardian.

A person may not become a member of the Maine state guard if he is a member of the national guard or other reserve component of the armed forces of the United States. (R. S. c. 12, § 93. 1949, c. 326, § 35. 1963, c. 405, § 1.)

Effect of amendment.—The 1963 amendment rewrote the first and second paragraphs, deleted the former third and fourth paragraphs and added the present third paragraph.

Sec. 99. Period of service.—The term of service or enlistment of officers commissioned and men enlisted in such forces shall be that prescribed for officers and enlisted men of the national guard. (R. S. c. 12, § 103. 1963, c. 405, § 2.)

Effect of amendment.—The 1963 amendment rewrote this section which was formerly divided into two paragraphs.

Chapter 15.

State Police.

Sections 8-13. Stations for Weighing Vehicles.
Sections 13-A to 13-E. Inspection of Motor Vehicles.
Sections 13-F, 13-G. Safety Glass.

State Police.

Sec. 1. Chief; appointment and duties; deputy chief; members of force; rules and regulations.—The governor, with the advice and consent of the council, shall appoint a chief of the state police, as heretofore appointed, to serve for a term of 4 years unless removed for cause. Such appointment may be made from the membership of the state police. He may be removed by the governor and council only after charges have been preferred in writing and, if he so requests, after public hearing. The chief shall be the executive head of the department of the state police, as heretofore established, and shall execute the duties of his office under the direction and subject to the approval of the governor and council. Subject to the approval of the governor and council, the chief may designate a commissioned officer of the state police to act as his deputy. Subject to the personnel law, the chief of the state police may enlist suitable persons as members of the state police to enforce the law and employ such other employees as may be necessary. The chief of the state police shall make rules and regulations, subject to the approval of the personnel board, for the discipline and control of the state police. (R. S. c. 13, § 1. 1945, c. 255, § 1. 1947, c. 24, §§ 1, 2. 1959, c. 363, § 5. 1961, c. 397, § 1.)

Effect of amendments. — The 1959 amendment added the words “department of the” and the words “as heretofore established” in the fourth sentence of this section. The 1961 amendment rewrote the portion of the section which followed the fourth sentence.

Sec. 2. Powers and duties; duty of other officers to cooperate.—The specific powers and duties of the state police shall be to patrol the state highways and other important ways, especially outside the compact portion of cities and towns, for the purpose of enforcing the provisions of law and all laws relating to motor driven and horse drawn vehicles and all rules and regulations in regard thereto, and of arresting all violators thereof and prosecuting all offenders against the same. The state police shall also aid the state highway commission in the enforcement of its rules and orders and permit regulations. In addition to such duties and powers, the chief and members of the state police are vested with the same powers and duties throughout the several counties of the state as sheriffs have in their respective counties to serve criminal processes, to investigate and prosecute violators of any law of this state and to arrest the offenders thereof, and also the