

**CS FOR HOUSE BILL NO. 152(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 2/23/18

Referred: Rules

Sponsor(s): HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the organized militia; and relating to the authority of the adjutant  
2 general."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 26.05.060 is amended to read:

5           **Sec. 26.05.060. Control and command of the organized militia [ALASKA  
6 **NATIONAL GUARD AND ALASKA NAVAL MILITIA]. The governor, by  
7 virtue of this office, is the commander in chief [AS EX OFFICIO COMMANDER]  
8 of the militia of the state. The governor's command is exercised through the  
9 adjutant general, who shall carry out the policies of the governor in military  
10 affairs. The adjutant general represents the governor and shall act in conformity  
11 with the governor's instructions. The adjutant general shall exercise control and  
12 command of the military department of the state. The adjutant general shall  
13 adopt regulations that provide for the organization, administration, and  
14 equipment of the organized militia that are not contrary to federal law or****

1 **regulations** [HAS COMMAND OF THE ALASKA NATIONAL GUARD AND  
 2 THE ALASKA NAVAL MILITIA WHILE THEY ARE NOT IN ACTIVE  
 3 FEDERAL SERVICE. THE GOVERNOR MAY ADOPT NECESSARY  
 4 REGULATIONS FOR THEM]. The Alaska National Guard and the Alaska Naval  
 5 Militia and their members are subject to all federal laws and regulations relating to the  
 6 National Guard and Naval Militia of the several states and territories and of the United  
 7 States.

8 \* **Sec. 2.** AS 26.05.070 is amended by adding new subsections to read:

9 (b) The organized militia may not be used against or to mitigate a lawful  
 10 activity, including an organized labor activity.

11 (c) The adjutant general may order members of the organized militia to active  
 12 state service, with their consent, for full-time duty with the office of the adjutant  
 13 general.

14 \* **Sec. 3.** AS 26.05.080 is amended to read:

15 **Sec. 26.05.080. Decision of governor final.** Whenever any portion of the  
 16 militia is ordered to duty by the governor, the decision of the governor in this matter is  
 17 final. **Whenever any portion of the militia is ordered to duty by the adjutant**  
 18 **general, the decision is subject to review by the governor.**

19 \* **Sec. 4.** AS 26.05.100 is amended to read:

20 **Sec. 26.05.100. Alaska State Defense Force. With the consent of the United**  
 21 **States Congress, a** [A] state militia, known as the Alaska State Defense Force, may  
 22 be organized through voluntary enlistments under regulations as to **commission,**  
 23 **enlistment, administration, equipment, maintenance,** discipline, and training that  
 24 may be prescribed by the **adjutant general under AS 26.05.060 and 26.05.360**  
 25 [GOVERNOR]. During the time that the Alaska National Guard or the Alaska Naval  
 26 Militia, or any part of either of them, is not available to the state by reason of active  
 27 federal service, or the National Guard or Naval Militia requires augmentation to  
 28 perform its state mission, the governor may activate the Alaska State Defense Force.  
 29 **Members of the Alaska State Defense Force performing inactive duty or training**  
 30 **or community service duties shall receive benefits under AS 26.05.260 if the**  
 31 **member suffers an injury, disability, or death while in the line of duty.**

1 \* **Sec. 5.** AS 26.05.190(a) is amended to read:

2 (a) [THE ADJUTANT GENERAL SHALL ADOPT AND PUBLISH  
3 ORDERS AND REGULATIONS NOT CONTRARY TO LAW THAT IN THE  
4 ADJUTANT GENERAL'S JUDGMENT ARE NECESSARY TO BRING THE  
5 ORGANIZATIONS, ARMAMENT, EQUIPMENT, AND DISCIPLINE OF THE  
6 ORGANIZED MILITIA TO A HIGH DEGREE OF EFFICIENCY.] The adjutant  
7 general shall perform all the administrative functions incident to the operation of the  
8 Alaska National Guard, the Alaska State Defense Force, and the Alaska Naval  
9 Militia. In addition, the adjutant general shall have an inventory taken at least once  
10 each year of all state military stores, property, and funds under the jurisdiction of the  
11 adjutant general.

12 \* **Sec. 6.** AS 26.05 is amended by adding a new section to read:

13 **Sec. 26.05.195. Adjutant general and assistant adjutant general duty**  
14 **status.** The adjutant general and assistant adjutants general are subject to regulations  
15 under this chapter and paid according to state law.

16 \* **Sec. 7.** AS 26.05.210(b) is amended to read:

17 (b) When federal recognition of an officer's commission or warrant has been  
18 withdrawn, the officer's state appointment as a commissioned or warrant officer may  
19 be terminated, and the commission or warrant vacated upon [THE  
20 RECOMMENDATION OF THE ADJUTANT GENERAL AND] approval of the  
21 adjutant general [GOVERNOR].

22 \* **Sec. 8.** AS 26.05.210(d) is amended to read:

23 (d) Commissioned or warrant officers may tender their resignations through  
24 National Guard or Naval Militia command channels. Resignations shall be in writing,  
25 stating the reason for resignation, and shall take effect when accepted by the adjutant  
26 general [UPON THE APPROVAL OF THE GOVERNOR].

27 \* **Sec. 9.** AS 26.05.220 is amended to read:

28 **Sec. 26.05.220. Retired list.** A commissioned officer and enlisted person upon  
29 reaching the maximum age prescribed for active duty by appropriate regulations and a  
30 commissioned officer or enlisted person who is disabled or incapacitated for active  
31 duty through no personal fault or dereliction, and a commissioned officer or enlisted

1 person who serves honorably with the Alaska National Guard or with the Alaska  
 2 Naval Militia in any capacity and is unable to perform further active duty due to  
 3 limitations imposed by appropriate regulations may be placed **on** [UPON] the retired  
 4 list upon recommendation by the adjutant general [AND APPROVAL OF THE  
 5 GOVERNOR].

6 \* **Sec. 10.** AS 26.05.230(b) is amended to read:

7 (b) The armory of each battalion, company, or other unit is subject to the order  
 8 of the adjutant general and under the charge of its armory board which shall keep in  
 9 the armory all property furnished by the state. [EXCEPT FOR SCOUT  
 10 BATTALIONS ORGANIZED UNDER SPECIAL AUTHORITY OF THE  
 11 SECRETARY OF THE ARMY, A UNIT MAY NOT BE FURNISHED WITH  
 12 ARMS OR EQUIPMENT UNTIL A SUITABLE ARMORY IS PROVIDED FOR  
 13 THEIR DEPOSIT.] Subject to regulations adopted by the adjutant general, an armory  
 14 may be used for any reasonable and legitimate civilian activity so long as the activity  
 15 does not interfere with its use for military purposes. [PROCEEDS RECEIVED AS  
 16 RENTAL OR OTHERWISE AT AN ARMORY FROM NONMILITARY USE  
 17 SHALL BE DEPOSITED IN THE GENERAL FUND.]

18 \* **Sec. 11.** AS 26.05.296(a) is amended to read:

19 (a) To the extent funds are available, the adjutant general may authorize the  
 20 payment of up to 100 percent of the cost of tuition and required fees for each active  
 21 member of the Alaska National Guard, **the Alaska State Defense Force**, or the  
 22 Alaska Naval Militia if the member attends an educational, vocational, or technical  
 23 training school in this state. The adjutant general may prioritize categories of  
 24 education benefits to encourage recruitment and retention of Alaska National Guard,  
 25 **Alaska State Defense Force, or Alaska Naval Militia** members. Payments  
 26 authorized under this section for active members of the Alaska National Guard, **the**  
 27 **Alaska State Defense Force**, or the Alaska Naval Militia continue so long as the  
 28 active member is a student in good standing in the educational program or class and  
 29 participates satisfactorily in unit training activities.

30 \* **Sec. 12.** AS 26.05.360(b) is amended to read:

31 (b) The regulations adopted under this section must

1 (1) provide for nonjudicial punishment; the regulations for nonjudicial  
 2 punishment may not provide for confinement or separation from military service or  
 3 prohibit a member of the militia from declining the imposition of nonjudicial  
 4 punishment in favor of a court-martial;

5 (2) as the adjutant general and the governor consider practicable, apply  
 6 the principles of law and the rules of evidence and procedure governing military  
 7 criminal cases in the courts of the armed forces of the United States, but may not be  
 8 contrary to or inconsistent with this chapter or the applicable Alaska Rules of  
 9 Evidence;

10 (3) include rules of pretrial, trial, and post-trial procedure, including  
 11 methods of proof, for cases before courts-martial and courts of inquiry;

12 **(4) not be contrary to federal law or regulations.**

13 \* **Sec. 13.** AS 26.05.360 is amended by adding a new subsection to read:

14 (e) The regulations adopted under this section must conform as nearly as  
 15 practicable to regulations governing the armed forces of the United States.

16 \* **Sec. 14.** AS 26.05.660 is amended to read:

17 **Sec. 26.05.660. Delegation by the governor.** The governor may delegate any  
 18 authority vested in the governor under the code of military justice, and provide for the  
 19 subdelegation of the authority, except the powers given to the governor by  
 20 **AS 26.05.450** [AS 26.05.170 AND 26.05.450].

21 \* **Sec. 15.** AS 26.05.170, 26.05.235, 26.05.340(a), and 26.05.340(d) are repealed.