

**HOUSE . . . . . No. 02917**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Paul McMurtry*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the military forces of the Commonwealth

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PETITION OF:

NAME:

*Paul McMurtry*

DISTRICT/ADDRESS:

*11th Norfolk*

# HOUSE . . . . . No. 02917

By Mr. McMurtry of Dedham, a petition (accompanied by bill, House, No. 2917) of McMurtry relative to the military forces of the Commonwealth Joint Committee on Public Safety and Homeland Security.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the military forces of the Commonwealth

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*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

### 1 MILITARY FORCES OF THE COMMONWEALTH

#### 2 I. DEFINITIONS

##### 3 Section 1. Definitions

4 a) As used in this chapter, the following words shall have the following meanings, unless a the

5 context clearly requires otherwise:-

6 "Commander-in-chief", the governor.

7 "Enlisted person", a member, other than a commissioned officer or a warrant officer, in the

8 military forces of the commonwealth, whether performing state or federal duty.

9 "Military division", the department conducting the military affairs of the executive branch of  
10 government for the commonwealth.

11 "Officer", a commissioned officer or a warrant officer in the military forces of the  
12 commonwealth, whether performing state or federal duty.

13 "Organization", a command composed of 2 or more units.

14 "Unit" includes headquarters, detachment, division, battalion, brigade, company, battery,  
15 troop, and equivalent air unit, and such other elements as the commander-in-chief may designate.

16 "Threat to homeland security", an attack or threatened attack on the population, infrastructure  
17 or government of the commonwealth by means of chemical, biological, radiological, nuclear,  
18 explosive, cyber or other means capable of causing material casualties and/or material disruption  
19 to our economic, transportation or governmental systems.

20 b) The use of the masculine gender throughout this code shall also include the feminine gender.

## 21 II. ORGANIZATION

### 22 Section 2. Military forces of the commonwealth

23 The military forces of the commonwealth shall consist of:

24 a) the army and air national guard as organized by federal law;

25 b) the state staff, legal residents of the commonwealth, and volunteers legally residing in  
26 other states who are organized into units as provided in this chapter; and

27 c) the ceremonial militia as provided in this chapter.

28 Section 3. Ceremonial militia

29 The ceremonial militia shall consist of:

- 30 a) the National Lancers;
- 31 b) the Ancient and Honorable Artillery Company;
- 32 c) the First Corps of Cadets; and
- 33 d) the Second Corps of Cadets.

34 The units of the ceremonial militia shall be organized as they determine in their charters of  
35 organization or bylaws. These units may retain their name and the right to wear distinctive  
36 uniforms provided that such uniforms may be readily distinguishable from the uniforms of the  
37 armed forces of the United States. They may retain their methods of selecting their officers and  
38 conducting their internal affairs so long as the same are not repugnant to the laws of the  
39 commonwealth or of the United States. Officers' commissions shall be honorary and the term ad  
40 honoris shall be included on any commissioning order. The National Lancers may use land and  
41 stable facilities belonging to the commonwealth for their activities and exercises without charge  
42 and may receive from the commonwealth, its departments, divisions or bureaus, without charge,  
43 any surplus equipment, goods, or other materials, as are available, provided that all such  
44 equipment, goods and materials remain the property of the commonwealth and are accounted for  
45 as such by means of biannual audits conducted by a certified auditor at no expense to the  
46 commonwealth. Members of the ceremonial militia are not state employees, and shall not be  
47 considered agents of the commonwealth unless acting pursuant to the written direction of the  
48 adjutant general or his designee.

49 Section 4. Powers of commander-in-chief; regulations for the military forces of the  
50 commonwealth

51 The commander-in-chief, or the adjutant general when designated by the commander-in-chief,  
52 may from time to time make and publish regulations for the government of the military forces of  
53 the commonwealth to include the appointment; promotion and removal of officers, and non-  
54 commissioned officers.

55 Section 5. Powers of commander-in-chief; increase or decrease in forces

56 The commander-in-chief, or the adjutant general when designated by the commander-in-chief,  
57 may by order raise and disband volunteer units of the military forces of the commonwealth and  
58 may from time to time prescribe the organization of the military forces of the commonwealth, the  
59 designation and location of all units, and the numbers, titles, grades and duties of all officers and  
60 enlisted persons.

61 Section 6. State staff; composition; qualifications

62

63 a) The state staff shall consist of one adjutant general, with the grade of major general, who shall  
64 be commanding general of the military forces of the commonwealth, the chief of staff to the  
65 commander-in-chief, and the chief of the state staff and of the officers provided for in this  
66 section, each of whom shall perform his duties under the direction of the adjutant general. To be  
67 eligible for initial appointment on the state staff, an officer shall have federal recognition in an  
68 organization or unit of the Massachusetts national guard, army or air.

69 b) The adjutant general shall be appointed by the commander-in-chief from those persons who  
70 are, or have been active commissioned officers in a national guard of any state, army or air for a  
71 period of not less than five years, who have attained while serving therein, or in the national  
72 guard of the United States a grade not lower than that of colonel, and who shall be eligible for  
73 promotion to a grade of not lower than brigadier general in the National Guard of the United  
74 States. He shall serve at the pleasure of the commander-in-chief. The adjutant general shall  
75 receive the same pay and allowances as an officer of the regular service of corresponding grade  
76 with corresponding length of service.

77 The adjutant general shall be the immediate adviser of the commander-in-chief on all matters  
78 relating to the military forces of the commonwealth and shall be charged with the planning,  
79 development and execution of the program for these military forces. The adjutant general shall  
80 cause the state staff to prepare plans for recruiting, organizing, supplying, equipping and  
81 mobilizing the military forces of the commonwealth for use in the national defense, for state  
82 defense and emergencies, and for demobilizing the military forces of the commonwealth.

83 The adjutant general shall hold major organization commanders responsible for the proper  
84 training of their commands. All orders and instructions for the government of the military forces  
85 of the commonwealth and of the officers and enlisted persons therein shall be issued and  
86 communicated to those concerned through military channels.

87 The adjutant general shall make such returns and reports as may be prescribed by the  
88 commander-in-chief or required by the laws or regulations of the commonwealth or of the United  
89 States, and may detail such officers of appropriate grade and employ such clerks and other  
90 assistants as may be necessary in the division at an expense not exceeding the amount

91 appropriated therefore. The adjutant general shall keep a roster of all Massachusetts veterans in  
92 alphabetical order by cities and towns and shall provide, upon request, said rosters to such cities  
93 and towns.

94 Except where by law or regulation powers are specifically conferred upon the adjutant general,  
95 the adjutant general shall have no authority independent of the commander-in-chief, from whom  
96 his orders shall emanate, and the acts of the adjutant general shall be regarded as in execution of  
97 the orders of the commander-in-chief.

98 Under the control of the commander-in-chief, the adjutant general shall be the executive and  
99 administrative head of the military division of the executive branch of the government of the  
100 commonwealth. Except as otherwise provided, he shall require that all contracts, and may require  
101 that all expenditures, made by the division be submitted to him for approval.

102 c) There shall be three full-time assistant adjutants general appointed by the adjutant general, one  
103 of whom shall be designated the executive officer and who shall have the rank of brigadier  
104 general, one of whom shall be designated assistant adjutant general for the army national guard,  
105 and one of whom shall be designated assistant adjutant general for the air national guard. They  
106 shall perform such duties as may be delegated to them by the adjutant general, or as prescribed in  
107 orders and regulations from time to time. To be eligible for initial appointment as an assistant  
108 adjutant general, an officer shall have federal recognition in an organization or unit of the  
109 Massachusetts national guard, army or air, in the rank of colonel.

110 d) There shall be a state quartermaster appointed by the adjutant general who shall have the care  
111 and control of all land and buildings held for military purposes and all other military property of  
112 the commonwealth except that which is expressly entrusted to the keeping of others under the

113 laws of the commonwealth and if the United States. The quartermaster shall be the state finance  
114 officer for the receipt, disbursement and accounting for all funds received by him for the  
115 payment, equipment, travel and subsistence of the military forces of the commonwealth. The  
116 quartermaster shall be the property and fiscal officer for the commonwealth in the receipt, issue,  
117 and accounting of all federal funds and property issued or allotted to the commonwealth in  
118 connection with the military forces of the commonwealth.

119 e) There shall be a state judge advocate appointed by the adjutant general who shall be the chief  
120 legal counsel to the military division.

121 f) There shall be a state surgeon appointed by the adjutant general who shall be adviser to the  
122 military division on all matters pertaining to the medical services of the military forces of the  
123 commonwealth.

124 g) A member of the state staff shall receive the same pay and allowances as an officer of the  
125 regular service of his corresponding grade with corresponding length of service; except those  
126 serving on a part-time basis shall receive such salary as determined by the adjutant general.

127 h) Other such staff shall be appointed as deemed necessary by the adjutant general;

128 i) During the absence or disability of an officer of the state staff, or during such time as he is in  
129 the active military service of the United States, the commander-in-chief may designate an officer  
130 to perform his duties.

131 Section 7. Duty of adjutant general regarding functions and operation of armory commission

132 The armory commission established by section 18 of chapter 6 shall be within the military  
133 division.



134 The adjutant general shall conduct comprehensive planning with respect to the functions of said  
135 commission and coordinate its activities and programs; shall conduct studies of the operations of  
136 said commission with a view to effecting improvements in administrative organization,  
137 procedures and practices, and to promoting economy, efficiency, and avoiding useless labor and  
138 expenses in said commission shall from time to time recommend to the commander-in-chief  
139 changes in the laws relating to the organization, structure, efficiency or administrative functions,  
140 services, procedures and practices of said commission. The adjutant general shall have the same  
141 power as the secretaries having charge of the executive offices established by chapters 6A and 7  
142 to review and act upon budgetary and other financial matters concerning said commission in  
143 accordance with sections 2C, 3, 3A, 4, 9B, 27A, 27B, 29 and 29A of chapter 29; sections 24C,  
144 25B, 36 and paragraph (5A) of section 46 of chapter 30; and sections 12 to 15, inclusive, and 35  
145 and 36 of chapter 31.

#### 146 Section 8. Discharge of officers; grounds

147 Except as otherwise provided for in this chapter, at any time the moral character, integrity,  
148 capacity and general fitness for the service of any officer may be investigated and determined by  
149 an efficiency board of three commissioned officers, senior in rank to him, to be designated by the  
150 adjutant general. The investigation may include misconduct in civil life for which the officer is  
151 not amenable to court-martial. If the findings of the board are unfavorable to the officer and are  
152 approved by the commander-in-chief, the officer shall be discharged. If the discharge is based  
153 solely on the officer's substandard performance of duty, the officer's discharge shall be  
154 characterized as honorable. If the discharge is based in whole or in part on the officer's moral  
155 character or integrity, the discharge may be characterized as general, under honorable conditions,  
156 or general, under under other than honorable conditions.

157 III. OPERATIONS AND TRAINING

158 Section 9: Assistance to civil authorities; use of military forces in case of riot, natural disaster,  
159 invasion, insurrection or threat to homeland security

160 a) The commander-in-chief may order out any part of the military forces of the commonwealth  
161 to support state and local civil authorities in the preservation of life and property, to perform  
162 other duty, and to otherwise assist in the enforcement of the laws.

163 b) In case of a tumult, riot, mob or body of persons acting together by force to violate or resist  
164 the laws of the commonwealth, or when such tumult, riot or mob is threatened, or in case of  
165 public catastrophe or natural disaster, the commander-in-chief may direct the adjutant general to  
166 order the military forces of the commonwealth, or any part thereof, to appear at a time and place  
167 therein specified to aid the civil authority in suppressing such violations, preserving order,  
168 affording such protection and supporting the laws.

169 c) The commander-in-chief may order out the military forces of the commonwealth to repel an  
170 invasion, to suppress an insurrection made or threatened, or to respond to a terrorist attack or  
171 other threat to homeland security.

172 Section 10 Law enforcement authority, immunity

173 Whenever the military forces of the commonwealth shall be ordered out for service under section  
174 9 of this chapter, or under title 32, section 502(f) of the United States Code, such members who  
175 have been awarded a United States army military occupational specialty code as a military  
176 policeman or a United States air force speciality code as a security policeman and such other  
177 members designated by the written order of the commander-in-chief shall have and exercise

178 throughout the commonwealth all the powers, duties and immunities of state police officers in  
179 addition to all powers, duties and immunities under this chapter and as otherwise provided by  
180 law. Members of the military forces of the commonwealth when performing duty under section  
181 9 of this chapter, or under title 32, section 502(f) of the United States code may carry within the  
182 commonwealth such weapons as the adjutant general, with the consent of the commander-in-  
183 chief shall determine.

184 Section 11. Members of military forces on state active duty not state employees

185 All members of the military forces of the commonwealth called to duty under section 9 of this  
186 chapter shall not be subject to the provisions of chapters 268A and 268B by virtue of their duty  
187 under section 9, nor shall they be considered state employees for purposes of state retirement  
188 benefits.

189 Section 12. Orders; form; contents

190 As soon as practicable all orders issued under section 9 shall be in writing and signed by the  
191 commander-in-chief. Such orders shall set forth the mission to be performed, the purpose to be  
192 accomplished by the adjutant general, and the date when such orders shall expire. The orders  
193 shall not prescribe the military measures to be used or the orders to be issued by the adjutant  
194 general, who shall use such measures and issue such orders as he deems necessary to accomplish  
195 the purpose indicated.

196 Section 13. Expenses of military forces; source of funds

197 The commander-in-chief may expend for carrying out the provisions of section 9, such sums as  
198 may be appropriated therefore.

199 Section 14. Use of streets and highways; right of way; exceptions; vehicle warning devices

200 The armed forces of the United States and any part of the military forces of the commonwealth  
201 parading or performing any duty according to law shall have the right of way in any street or  
202 highway through which they may pass, and driver(s) of vehicle(s) in a military convoy, may  
203 drive such vehicle(s) through an intersection of ways contrary to any traffic signs or signals  
204 regulating traffic at such intersection, and a police officer or duly authorized member of the  
205 military service shall be stationed at such intersection to regulate traffic, when practical;  
206 provided, that the carriage of the United States mails, the legitimate functions of the police, and  
207 the progress and operation of fire departments and emergency medical services shall not be  
208 interfered with thereby.

209 One or more vehicles in a military convoy may be equipped with sirens or other audible warning  
210 devices and with visible warning devices as provided for in section 7E of chapter 90.

211 Section 15. Occupation of land and buildings; exceptions; liability for damages

212 When on duty under orders of the commander-in-chief, the military forces of the commonwealth  
213 may enter upon and occupy any public or private lands within the commonwealth for the  
214 necessary purposes of such duty, and no officer or enlisted person shall thereby become liable,  
215 either civilly or criminally, for trespass; but except in times of invasion, insurrection, riot, natural  
216 disaster, public catastrophe or danger, terrorist attack, or other threat to homeland security, no  
217 organization of the military forces nor individual members thereof shall be permitted to enter  
218 houses or other buildings or their immediate enclosures, without the consent of the owner or  
219 tenant in possession, nor to go upon the gardens, lawns, tobacco fields, cranberry bogs,

220 vineyards, nurseries, planted fields, orchards or cemeteries unless extreme necessity for such  
221 entry exists, and then only in obedience to the specific orders of the senior officer present.

222 Section 16. Exclusion of traffic from highways during military operations

223 The commander-in-chief, under such regulations as he may prescribe, may exclude traffic from  
224 highways during military operations under section 9 of any organization or unit of the armed  
225 forces of the United States or the military forces of the commonwealth, whenever he deems that  
226 public convenience or safety so requires.

227 Section 17. Boundaries of encampments; establishment; limitations; penalty for trespass

228 Every commanding officer, when on duty, may fix necessary bounds and limits to his parade or  
229 encampment, but not including a public road within such bounds in such manner as to prevent  
230 traveling thereon, within which bounds and limits no person shall enter without his leave.

231 Whoever intrudes within the limits of the parade or encampment, after being forbidden, may be  
232 ejected, forcibly if necessary, or confined under guard during the time of parade or encampment,  
233 or during a shorter time, at the discretion of the commanding officer; and whoever resists a  
234 sentry may be arrested by the order of the commanding officer and dealt with as provided in  
235 section 18.

236 Section 18. Obstructing or interfering with military forces; penalty

237 Whoever interrupts, interferes, assaults, or obstructs any officer or enlisted person while on duty  
238 or at any parade, drill, military operation under section 9, or other assembly for military  
239 purposes, may immediately be put under guard and kept at the discretion of the commanding  
240 officer until the duty, drill, parade or assembly is concluded; and may be delivered into the

241 custody of any police officer of the city or town where such duty, parade, drill or assembly is  
242 held, who shall detain him in custody for examination or trial before a court having jurisdiction  
243 of the place; and any person found guilty of any of the offences enumerated in this section, or in  
244 section seventeen, or of obstructing, assaulting or interfering with the armed forces of the United  
245 States or any part of the military forces of the commonwealth in the exercise or enjoyment of the  
246 right of way granted by section fourteen, shall be punished by a fine or not more than \$1000 or  
247 by imprisonment for not more than 2 ½ years.

248 Section 19. Damages to lands; liability of personnel; conditions

249 No officer or enlisted person shall be liable, either civilly or criminally, for any damage to  
250 property or injury to any person, including death resulting therefrom, caused by him or by his  
251 order, while performing any military duty lawfully ordered under any provision of this chapter,  
252 unless the act or order causing such damage or injury was manifestly beyond the scope of the  
253 authority of such officer or enlisted person and except as otherwise provided by chapter 258.

254 IV. PAY, EMPLOYMENT RIGHTS AND BENEFITS

255 Section 20. Rates of Pay for Certain Duties

256 a) For duty performed under the provisions of section 9 there shall be allowed and paid to  
257 members of the military forces of the commonwealth from funds appropriated therefore the same  
258 rate of pay for length of service and basic allowances as if they were on active duty status in the  
259 armed forces of the United States, however, such compensation shall not be less than \$100 per  
260 day, subject, however, to the provisions of subsection (b).

261 b) For duty performed under the provisions of section 9 funded pursuant to title 32 of the United  
262 States Code, subparagraph (a) of this section shall not apply.

263 Section 21. Travel Expenses

264 Travel expenses for each officer and enlisted person of the military forces of the commonwealth  
265 required and authorized to travel under any section of this chapter shall be allowed and paid from  
266 funds appropriated therefore and in conformity with the federal Joint Forces Travel Regulations,  
267 or any such successive regulation.

268 Section 22. Subsistence

269 Subsistence for members of the military forces of the commonwealth ordered to duty under the  
270 provisions of section 9 shall be furnished in kind unless otherwise directed by the adjutant  
271 general.

272 Section 23. Differential pay for public employees during active military service

273 Notwithstanding any general or special law to the contrary, an employee in the service of the  
274 commonwealth or a county, city or town that accepts the provisions of this section, including an  
275 employee of a school district, who has been granted a military leave of absence because the  
276 employee is a member of the army national guard, the air national guard or a reserve component  
277 of the armed forces of the United States called to active service in either the armed forces of the  
278 United States or in the military forces of the commonwealth after September 11, 2001, shall be  
279 entitled to receive pay at his regular base salary as such a public employee, and shall not lose any  
280 seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned  
281 overtime. An employee eligible under this section shall be paid his regular base salary as a

282 public employee for each pay period of such military leave of absence after September 11, 2001,  
283 reduced by any amount received either from the United States or the commonwealth as base pay  
284 for military service performed during the same pay period. For purposes of this section, base  
285 salary and base pay shall not include any allowances, overtime pay, shift differential pay,  
286 hazardous duty pay or any other additional compensation received. For the purposes of this  
287 section, the words "active service" shall not include active duty for training in the army national  
288 guard or air national guard or as a reservist in the armed forces of the United States. This section  
289 shall take effect in a county, city or town upon its acceptance in a county, by vote of the county  
290 commissioners; in a city or town, as provided in section 4 of chapter 4; and in a regional school  
291 district, by vote of the school committee. Nothing in this section shall limit or reduce a person's  
292 entitlement to benefits under section 24, and nothing in this section shall entitle a person to  
293 benefits in excess of the maximum benefit provided under said section 24 for any period during  
294 which that person is receiving benefits under this section.

295 Section 24. Effect of military training on salary or vacation allowance of public employees  
296 Any person in the service of the commonwealth, or of a county, city or town which, by vote of  
297 its county commissioners or city council or of its inhabitants at a town meeting, accepts this  
298 section, shall be entitled, during the time of his annual training or active duty for training not  
299 exceeding (i) 30 days in any state fiscal year and not exceeding 15 days in any federal fiscal year  
300 as a member of a reserve component of the armed forces of the United States, or (ii) 42 days in  
301 any state fiscal year and not exceeding 21 days in any federal fiscal year for such person in the  
302 service of the military forces of the commonwealth who is a member of the state staff, or of a  
303 national guard unit of the commonwealth scheduled for imminent active service in the armed  
304 forces of the United States and authorized by the adjutant general to perform extended annual



305 training in support of such forthcoming active service, to receive pay therefore, without loss of  
306 his ordinary remuneration as an employee or official of the commonwealth, or of such county,  
307 city or town, and shall also be entitled to the same leaves of absence or vacation with pay,  
308 seniority or any accrued sick leave, personal leave, compensation time or earned overtime given  
309 to other like employees or officials.

310 Section 25. Employment discrimination, civil relief, employment and re-employment rights

311 a) The following provisions of federal law, as from time to time amended, are adopted as state  
312 law and applied to members of the military forces of the commonwealth when such members are  
313 ordered to duty under section 9 of this chapter, or full time national guard service under title 32  
314 of the United States Code:

315 1. The Servicemembers Civil Relief Act of 2003 (SCRA), codified at 50 U.S.C. App.,  
316 Section 501 et seq.; and

317 2. The Uniformed Services Employment and Reemployment Rights Act (USERRA),  
318 Sections 4301 through 4333 of title 38 of the United States Code.

319 b) As adopted as state law, the terms “service in the uniformed services” and “military service”  
320 under USERRA and SCRA shall also mean all service performed under section 9 of this chapter  
321 by a member of the military forces of the commonwealth.

322 c) For purposes of subchapter III of USERRA (§§4321-4326) the attorney general of the  
323 commonwealth shall perform all duties assigned to the secretary of labor or to the attorney  
324 general of the United States under the federal law.

325 d) The district and superior courts of the commonwealth shall have jurisdiction over actions  
326 under this section in accordance with their rules as to the amount of damages.

327 e) the crimes set forth in sections 521(c), 531(c), 532(b), 533(d), 535(h), 536(e) and 537(c) of the  
328 SCRA shall be criminal offenses under state law and shall carry the same punishments as set  
329 forth under the federal law.

### 330 Section 26. Awards and Decorations

331 a) To each member who completes three years of honorable service in the military forces of the  
332 commonwealth, there shall be awarded a Massachusetts Service Medal, and for each additional  
333 three years of like service a Bronze Service Star shall be affixed to the ribbon pendant thereof.  
334 Members of the military forces of the commonwealth, active, retired or honorably discharged,  
335 who have served in the armed forces of the United States in time of war and have been honorably  
336 discharged therefrom, shall receive a war service star indicative of such service, to be affixed to  
337 the ribbon pendant of the medal herein provided.

338 b) The adjutant general shall appoint an awards board consisting of three field grade officers and  
339 two senior NCO's to receive recommendations through military channels for the awarding of the  
340 decorations set forth in subsections (c), (d), (e) and (f).

341 c) The Massachusetts Medal of Valor may be awarded to a member of the armed forces of the  
342 commonwealth who, while on military duty, performs a deed of conspicuous gallantry at the risk  
343 of his life.

344 d) The Massachusetts Military Medal may be awarded to a member of the military forces of the  
345 commonwealth who, while on military duty performs a singular meritorious act of heroism

346 which distinguishes him from his comrades but is of a lesser degree than that required for the  
347 awarding of the Massachusetts Medal of Valor. The Massachusetts Medal of Merit may be  
348 awarded to a member of the military forces of the commonwealth, the United States or any other  
349 state or territory of the United States who, while on military duty distinguishes himself by  
350 exceptionally meritorious conduct in performing outstanding services to the military forces of  
351 the commonwealth of Massachusetts

352 f) The Massachusetts Humanitarian Service Ribbon may be awarded to those personnel of the  
353 military forces of the commonwealth, who perform a singularly meritorious act of heroism or an  
354 act of significant achievement not involving actual military service with the military forces of the  
355 commonwealth, but reflecting favorably on the individual's membership in the national guard.  
356 The individual must have performed an act of heroism or an act of significant achievement so  
357 outstanding that he or she clearly went beyond what reasonably might have been expected from  
358 most persons under similar circumstances.

359 g) The Massachusetts Outstanding Soldier/Airman Ribbon may be awarded by the state  
360 command sergeant major to an enlisted member of the military forces within the commonwealth  
361 for meritorious service or achievement. The ribbon will also be awarded to all airmen and  
362 soldiers selected as Airman/Soldier of the Year by commanders with the rank of colonel or  
363 higher.

364 Not more than one Medal of Valor, Massachusetts Military Medal or Medal of Merit shall be  
365 awarded to any person but a subsequent award of said decoration shall be evidenced by a suitable  
366 clasp or other device.

367 The Massachusetts Medal of Valor, Military Medal, Medal of Merit, and Humanitarian Service  
368 Ribbon may be awarded posthumously.

369 Section 27. Death or disability compensation

370 An officer or enlisted person of the military forces of the commonwealth, while performing any  
371 military duty ordered under any provision of this chapter, who in the line of duty receives any  
372 injury, is disabled, or contracts any sickness or disease, incapacitating him from pursuing his  
373 usual business or occupation, shall, during the period of such incapacity, receive compensation to  
374 be fixed by a board appointed under the provisions of section 31 to inquire into his claim, and  
375 actual, reasonable and necessary expenses for medical services and care, medicines and  
376 hospitalization, rehabilitation and retraining, replacement or repair of eyeglasses, dentures or  
377 prosthetic devices worn or carried. The rate of compensation for any such officer or enlisted  
378 member shall be their military rate of pay at the time of the accident or in the case of illness,  
379 when first diagnosed by a duly licensed medical doctor.

380 In case of death resulting from such sickness or disease, except in the case of any such death for  
381 which compensation is payable under the provisions of the third paragraph of this section,  
382 compensation shall be paid to the decedent's dependents, as determined in accordance with  
383 clause (3) of section 1 and section 32 of chapter 152, in the amounts provided by and otherwise  
384 subject to section 31 of said chapter and further substituting their member's military rate of pay  
385 at the time of the accident or in the case of illness, when first diagnosed by a duly licensed  
386 medical doctor, if greater than the average weekly wage of the deceased as referred to in section  
387 31 of chapter 152; provided, that dependents other than the widow/widower and children shall

388 receive compensation to be fixed by said board, which shall use the provisions of chapter 152 to  
389 the department of industrial accidents in determining said benefits.

390 In the case of the death of a member of the Massachusetts national guard resulting from injury,  
391 sickness or disease received while in the line of duty pursuant to orders under titles 10 and 32 of  
392 the United States Code or this chapter, a single payment of \$200,000 shall be paid to the  
393 surviving spouse. If there is no surviving spouse the amount shall be paid to the child or children  
394 in equal shares, of the decedent. If there is no surviving spouse and no child or children, the  
395 surviving mother and father of the decedent, if the father and mother were dependent on the  
396 decedent for support at the time of his death shall each receive \$100,000. If only 1 parent  
397 survived the decedent or only one parent was dependent on the decedent for support, that parent  
398 shall receive \$200,000. The standard for dependency shall be determined in accordance with  
399 clause (3) of section 1 and section 32 of chapter 152. All claims presented under the provision of  
400 this section shall be made in accordance with the procedure set forth in section 31. All sums paid  
401 hereunder shall be considered exempt from taxation for income purposes by the commonwealth  
402 of Massachusetts.

403 If an officer or enlisted member is injured by reason of his serious and willful misconduct, he  
404 shall not receive compensation; but this provision shall not bar compensation to his dependents if  
405 the injury results in death.

406 Section 28 Group life insurance; partial payment of premium by commonwealth

407 For members of the Massachusetts national guard, army or air, the commonwealth shall pay 50  
408 per cent of the monthly premiums for any coverage held in the serviceman's group life insurance

409 program administered by the Veterans Administration, or for an equivalent group life insurance  
410 program authorized by the adjutant general.

411 Section 29 Health Care coverage

412 Members of the Massachusetts national guard, army or air, performing duty under this chapter  
413 for more than 30 days who do not otherwise have other health care coverage shall elect  
414 TRICARE Reserve Select coverage, or such other successor coverage afforded by the federal  
415 government to members of the national guard. One hundred percent of the monthly premium for  
416 individual or family health insurance coverage administered by TRICARE, or an equivalent  
417 health insurance program of the member's choosing provided that the reimbursement shall not  
418 exceed 100 percent of the monthly premium cost of TRICARE Reserve Select for a qualified  
419 member of the Massachusetts national guard, shall be borne by the commonwealth. A qualified  
420 member of the Massachusetts national guard as used in this section shall not include members  
421 ordered to active duty pursuant to titles 10 or 32 of the United States Code for more than 30  
422 consecutive days, members eligible for or enrolled in a Group Health Plan as an employee of any  
423 state or local government, or members who do not meet qualification standards otherwise  
424 established by TRICARE from time to time.

425 Section 30 Uncovered medical treatment costs

426 Under regulations promulgated by the adjutant general, the commonwealth shall pay 100 percent  
427 of the cost of medical treatment, not otherwise covered by medical health insurance or disability  
428 benefits available pursuant to section 27 of this chapter, for injuries incurred by members of the  
429 Massachusetts national guard, army or air, who are performing duty under this chapter.

430 Section 31. Board of compensation; powers and duties; payment of claims

431 Claims against the commonwealth for compensation under the provisions of section 27 shall be  
432 referred to a board of at least 3 members chaired by the state surgeon and including at least 1  
433 physician serving as an officer in the military forces of the commonwealth, and a judge advocate  
434 officer. The board may also include such other members as appointed by the adjutant general.  
435 The board in consideration of the claim shall except as otherwise provided in section 27 take into  
436 account any compensation received by the claimant or his dependents from the United States.  
437 The board shall have the same power to take evidence, administer oaths, issue subpoenas and  
438 compel witnesses to attend and testify and produce books and papers, and to punish their failure  
439 to do so as is possessed by a general court-martial. The findings of the board shall be subject to  
440 the approval of the adjutant general. The amounts so found due and so approved shall be a  
441 charge against the commonwealth and shall be paid in the same manner as other military  
442 accounts.

443 Section 32. Subrogation

444 Where the damage or injury for which compensation is claimed under section 31 was caused  
445 under circumstances creating a legal liability in some person other than the commonwealth to  
446 pay damages in respect thereof, the commonwealth may enforce, in the name of the claimant or  
447 in its own name and for its own benefit, the liability of such other person. The entire sum  
448 recovered shall be for the benefit of the commonwealth.

449 Section 33. National guard education assistance program

450 There is hereby established a Massachusetts national guard education assistance program. Said  
451 program shall be administered by the board of regents which shall have the authority to issue a  
452 certificate of exemption from the matriculation fee and tuition to any member of the

453 Massachusetts army or air who is enrolled at any state institution in a program the cost of which  
454 is borne by the commonwealth and who is qualified as hereinafter provided. Said certificate shall  
455 remain in effect one full academic year and shall be renewed after the student has completed a  
456 full academic year of work equal to 30 semester hours, in accordance with regulations prescribed  
457 by said board: 1 certificate may therefore be in effect for more than 1 year.

458 To receive benefits from the program, the member shall be a member in good standing of the  
459 Massachusetts army or air national guard at the beginning of each semester that benefits are  
460 payable and shall remain a member in good standing of the Massachusetts army or air national  
461 guard throughout the entire semester for which benefits are payable.

462 Assistance shall continue for the benefit of said member only during such time as he remains a  
463 student in good standing at the institution in which he is enrolled and in no event shall any  
464 student receive the benefits for more than 130 semester hours.

465 Enrollment of a member in a course at said institutions shall be dependent on the availability of  
466 seats. Availability of seats for the purposes of this section shall mean vacancies that exist in a  
467 course after the enrollment of all tuition paying students, and all students who are enrolled under  
468 any scholarship or tuition waiver provisions.

#### 469 V. MILITARY PROPERTY

470 Section 34. Inspection and condemnation of military property; reports

471 The state quartermaster as property officer for the commonwealth shall inspect and condemn  
472 military property of the commonwealth unfit for use. Except as is otherwise provided by law, no  
473 such property shall be sold until it has been inspected and condemned, and the condemnation



474 approved by the adjutant general. The proceeds of any sales made hereunder shall be paid to  
475 commonwealth.

476 Section 35. Lease of military property

477 The commander-in-chief in chief may lease to or permit the use of military property belonging to  
478 the commonwealth by the armed forces of the United States, upon such terms and conditions  
479 which will fully protect the interests of the commonwealth.

480 Section 36. Acceptance of gifts for military purposes

481 The adjutant general may accept on behalf of the commonwealth any gift or bequest of personal  
482 property to or for the use of the military forces of the commonwealth, and shall forthwith transfer  
483 any money or securities so received to the state treasurer who shall administer the same as  
484 provided in section 17A of chapter 10.

485 VI. ARMORIES AND INSTALLATIONS

486 Section 37. Armories and installations;

487 The commonwealth shall provide for units of the army and air national guard permanently  
488 stationed within its boundaries with armories, air installations, and training installations,  
489 including suitable buildings for the purpose of drill, administrative work, and for the safekeeping  
490 of military property. The commonwealth shall provide for the operation and maintenance of such  
491 armories and installations, and shall pay any costs associated thereof not paid by the United  
492 States.

493 Section 38. Use of armories and installations; nature and scope

494 Armories, air installations and training installations provided for the military forces of the  
495 commonwealth shall be used by them for the military purposes or purposes incidental thereto  
496 designated by the adjutant general. Any state armory, air installation, or training installation  
497 when not in use for military purposes may be used without charge and subject to rules and  
498 regulations promulgated by the adjutant general for social activities or athletics by military units  
499 stationed in such armory, air installation or training installation. Non-military use of an armory,  
500 air installation or training installation under this section shall not be permitted if it interferes with  
501 its military use, and shall be subject to rules and regulations promulgated by the adjutant general.

502 Section 39. Protection of military facilities and equipment

503 The senior military officer in charge of any armory, air installation, training installation, or other  
504 military facility owned, leased, licensed, or maintained by the commonwealth or by the United  
505 States for the use of the military forces of the commonwealth shall have control of such premises  
506 during the period of such occupation, subject to the orders of his superior officers, and whoever  
507 intrudes within the limits of such armory, air installation, training installation, or other military  
508 facility, after being forbidden, may be ejected, forcibly if necessary, or confined under guard  
509 during the time of parade or encampment, or during a shorter time by the order of the  
510 commanding officer; and whoever resists a sentry may be arrested by order of the commanding  
511 officer and dealt with as provided in section 18.

512 Within the Massachusetts Military Reservation or the Barnes Air National Guard Base, or about  
513 any vehicle or convoy transporting inherently dangerous property to include weapons,  
514 ammunition, missiles, rockets, explosives, and chemical agents to or from the Massachusetts  
515 Military Reservation or the Barnes Air National Guard Base, military forces of the

516 commonwealth may use the means necessary and required, including the arming of trained  
517 personnel to include any officer, noncommissioned officer, airman, soldier, civilian or contract  
518 employee performing security, law enforcement, military police, or guard duties, to protect,  
519 guard, secure and defend and maintain all such facilities, vehicles or convoys, to include the  
520 assets, equipment and property located thereon. Use of force by any such personnel in active  
521 federal service, active state service, or service or employment of the United States, shall be in  
522 accordance with the applicable department of defense, United States army, United States air  
523 force, or commander-in-chief directives and instructions on rules of engagement and use of  
524 force. That person's honest and reasonable judgment under the circumstances then existing, in  
525 the exercise of the use of force in the performance of his or her duty under said directives and  
526 regulations, is full protection, civilly and criminally, for an act done in the line of duty.

527 Section 40. Armory commission

528 The armory commission provided for in section 18 of chapter 6 shall have full supervision and  
529 control of the construction of all armories or air installations taken, purchased or erected by the  
530 commonwealth, and on completion and acceptance of any such armory, air installation or  
531 training installation, the care and maintenance thereof shall devolve upon the state quartermaster.

532 VII. GENERAL PROVISIONS

533 Section 41. Unauthorized wearing of uniform; penalties

534 Whoever, not being in the service of the armed forces of the United States or the military forces  
535 of the commonwealth, appears in public wearing the distinctive uniform of any branch of such  
536 service shall be punished by a fine of not more than \$1000 or by imprisonment for not more than  
537 6 months, or both, but this section shall not apply to any person discharged from such service, for

538 any cause other than his own unworthiness, wearing his uniform in order to take part in any  
539 military or naval parade or on any occasion of ceremony, or to any person in the service of the  
540 armed forces of the United States, discharged for any cause other than his own unworthiness,  
541 wearing the uniform from place of discharge to his home. Any person found violating any  
542 provision of this section may be arrested without a warrant by any officer qualified to serve  
543 criminal process; provided, that nothing in this section shall subject to penalty any action with  
544 respect to the wearing of uniforms of the armed forces of the United States which is authorized  
545 by federal law.

546 Section 42. Drill and military maneuver by private organizations

547 Excluding the armed forces of the United States, the military forces of the commonwealth, and  
548 foreign troops whose admission to the United States the government of the United States has  
549 consented, and subject to rules and regulations that may be promulgated by the adjutant general,  
550 no body of persons, except for ceremonial or historical purposes, shall conduct drill or military  
551 maneuvers with firearms anywhere within the commonwealth.

552 NON CHAPTER 33 SECTIONS

553 Chapter 151B: Section 4. Unlawful practices

554 Section 4. It shall be an unlawful practice:

555 1D. For an employer, an employment agency, the commonwealth or any of its political  
556 subdivisions, by itself or its agents, to deny initial employment, reemployment, retention in  
557 employment, promotion or any benefit of employment to a person who is a member of, applies to  
558 perform, or has an obligation to perform, service in a uniformed military service of the United

559 States, including the national guard, when serving in title 10 or 32 of the United States Code or  
560 chapter 33 of the General Laws, on the basis of that membership, application or obligation.

561