

SENATE No. 2327

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Fourteen
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SENATE, Wednesday, July 30, 2014

The committee on Ways and Means, to whom was referred the House Bill relative to defense policies of the Commonwealth (House, No. 4109); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2327.

For the committee,
Stephen M. Brewer

SENATE No. 2321

The Commonwealth of Massachusetts

—
In the Year Two Thousand Fourteen
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1 SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section
2 18, as appearing in the 2012 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 18. There shall be an armory commission composed of the following members:
5 the adjutant general, who shall serve as chairperson; the state quartermaster, who shall serve as
6 clerk; 2 assistant adjutants general, 1 of whom shall be an army officer and 1 of whom shall be
7 an air officer; and the army national guard facilities management officer. Neither the adjutant
8 general, the state quartermaster, nor the army national guard facilities management officer shall
9 receive any additional compensation on account of their membership in the armory commission.
10 The assistant adjutants general shall, if not currently on full-time military duty, receive 1 day's
11 pay of grade and allowances for each day of service as a member of the armory commission.

12 SECTION 2. Chapter 15A of the General Laws is hereby amended by adding the
13 following section:-

14 Section 44. (a) As used in this section, the following words shall have the following
15 meanings, unless context clearly requires otherwise:-

16 “Armed forces”, the armed forces of the commonwealth as defined in section 10 of
17 chapter 33, including a state defense force or similar organization composed as permitted by law
18 or of the armed forces of another state or territory.

19 “Service in the uniformed services” shall have the same definition as provided in 34
20 C.F.R. § 668.18 (b) and shall include either voluntary or involuntary service: (i) in the armed
21 forces of the commonwealth, including a state guard or similar organization composed as
22 permitted by law, when engaged in duty under chapter 33 or Title 32 of the United States Code;
23 or (ii) in the armed forces of another state or territory ordered to perform service under
24 appropriate state or federal authority, without regard for the number of consecutive days of duty.

25 (b) Members of the armed forces of the commonwealth ordered to state active duty
26 pursuant to chapter 33 or of the armed forces of another state or territory ordered to state active
27 duty under appropriate authority who attend an educational institution within the commonwealth
28 shall be entitled to all rights, protections privileges and immunities afforded under the federal
29 regulation providing readmission requirements for service members pursuant to 34 C.F.R.
30 §668.18.

31 (c) Any service performed pursuant to (i) chapter 33, (ii) similar authority of another state
32 or territory or (iii) Title 32 of the United States Code, when in support of a critical homeland
33 security or emergency management operation as determined by the adjutant general, shall not be
34 included in the calculation of a student’s cumulative length of absence from an educational
35 institution.

36 (d) No student shall incur any academic or financial penalty by virtue of performing
37 service in the uniformed services. A student who enrolls in but is unable to complete an

38 academic course in order to perform service in the uniformed services shall have the option to
39 complete the course at a later date without penalty or withdraw from the course with a full refund
40 of fees and tuition paid. If the academic course is no longer available upon the student's return
41 from service in the uniformed services, the student shall be permitted to complete a replacement
42 course for equivalent credit without penalty. If the student chooses to withdraw from the course,
43 the student's record shall reflect that the withdrawal is due to active military service.

44 SECTION 3. Chapter 33 of the General Laws is hereby amended by striking out sections
45 1 and 2, as appearing in the 2012 Official Edition, and inserting in place thereof the following 2
46 sections:-

47 Section 1. As used in this chapter, the following words shall have the following
48 meanings, unless the context clearly requires otherwise:

49 "Commander-in-chief", the governor of the commonwealth.

50 "Enlisted person", a member, other than a commissioned officer or a warrant officer, in
51 the military forces of the commonwealth.

52 "Military custodian", the senior military officer in command of troops stationed in an
53 armory or air installation unless otherwise designated by the commander-in-chief.

54 "Military forces of the commonwealth", shall include the organized militia, as defined in
55 section 4, and members of the unorganized militia, as defined in section 3, if drafted or accepted
56 as volunteers under sections 55 and 56.

57 "Noncommissioned officer", an enlisted person serving at a rank of corporal through
58 command sergeant major or the air equivalents of these ranks.

59 “Officer”, a commissioned officer or a warrant officer in the military forces of the
60 commonwealth.

61 “Organization”, a command composed of 2 or more units.

62 “Unit”, shall include headquarters, detachment, company, battery, troop and equivalent
63 air unit and such other elements as may be determined by the commander-in-chief to come under
64 such designation.

65 Section 2. The militia of the commonwealth shall consist of: (i) all able-bodied citizens
66 and all other able-bodied persons who have declared their intention to become citizens of the
67 United States, between the ages of 18 and 45, and who are residents of the commonwealth; and
68 (ii) such other persons who, upon their own application, enlist or are commissioned under this
69 chapter, subject to exemptions created by law.

70 SECTION 4. Section 3 of said chapter 33, as so appearing, is hereby amended by
71 striking out, in line 5, the words “the suppression of riots,” and inserting in place thereof the
72 following words:- threats to homeland security.

73 SECTION 5. Said chapter 33 is hereby further amended by striking out sections 4 and
74 4A, as so appearing, and inserting in place thereof the following 2 sections:-

75 Section 4. The active or organized militia shall be composed of volunteers, and shall
76 comprise the aides-de-camp of the commander-in-chief, the state staff, the armed forces of the
77 commonwealth, as defined in section 10, the National Lancers and the retired list. The organized
78 militia shall constitute the military division of the executive branch of the commonwealth.

79 Section 4A. The National Lancers shall be organized as the commander-in-chief directs
80 and may retain their name and the right to wear distinctive uniforms; provided, that such
81 uniforms shall be approved by the commander-in-chief. The National Lancers may retain their
82 methods of selecting their officers and conducting their internal affairs consistent with the laws
83 of the commonwealth and the laws of the United States. The National Lancers may use land and
84 stable facilities belonging to the commonwealth for their activities, equipment and exercises,
85 without charge, and may receive from the commonwealth, its departments, divisions or bureaus
86 or the federal government, without charge, any surplus equipment, goods or other materials, as
87 are available, provided that such equipment, goods and materials shall remain the property of the
88 commonwealth and shall be accounted for as such.

89 SECTION 6. Section 7 of said chapter 33, as so appearing, is hereby amended by
90 striking out, in line 1, the words “from time to time”.

91 SECTION 7. Section 8 of said chapter 33 is hereby repealed.

92 SECTION 8. Said chapter 33 is hereby further amended by striking out section 10, as
93 appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

94 Section 10. The armed forces of the commonwealth shall consist of the active national
95 guard, army and air, the inactive national guard, army and air, and, whenever necessary, a state
96 defense force or similar organization composed as the commander-in-chief may prescribe.

97 SECTION 9. Section 11 of said chapter 33, as so appearing, is hereby amended by
98 striking out, in line 2, the words “from time to time”.

99 SECTION 10. Said chapter 33 is hereby further amended by striking out section 12, as
100 so appearing, and inserting in place thereof the following section:-

101 Section 12. No person shall be discriminated against or be segregated in the military
102 forces of the commonwealth because of race, color, religious creed, sexual orientation or national
103 origin.

104 SECTION 11. Said chapter 33 is hereby further amended by striking out sections 13 to
105 15, inclusive, as appearing in the 2012 Official Edition, and inserting in place thereof the
106 following 4 sections:-

107 Section 13. (a) As used in this section, the following words shall have the following
108 meanings, unless the context clearly requires otherwise:-

109 “Benefit of employment”, shall have the same meaning as defined in 38 U.S.C. § 4303
110 (2) and shall include a workplace free of conduct that has the purpose or effect of unreasonably
111 interfering with an individual’s work performance by creating an intimidating, hostile,
112 humiliating or offensive work environment.

113 “Service in the uniformed services”, shall have the same meaning as defined in 38 U.S.C.
114 § 4303 (13) and shall include voluntary or involuntary service in the armed forces of the
115 commonwealth as defined in section 10, including the state defense force or similar organization
116 composed as permitted by law, in the state staff or in the armed forces of another state or
117 territory.

118 “Uniformed services”, shall have the same meaning as defined in 38 U.S.C. § 4303 (16)
119 and shall include (i) the armed forces of the commonwealth, including the state defense force or

120 similar organization composed as permitted by law, (ii) the state staff when engaged in duty
121 under this chapter or Title 32 of the United States Code or (iii) the armed forces of another state
122 or territory when ordered to active duty under appropriate authority.

123 (b) Members of the armed forces of the commonwealth, including the state defense force
124 or similar organization composed as permitted by law, the state staff or the armed forces of
125 another state or territory who are employed within the commonwealth and ordered to active duty
126 under this chapter, the appropriate authority of another state or territory or Title 32 of the United
127 States Code shall be entitled to all rights, protections, privileges and immunities afforded under
128 the Uniformed Services Employment and Reemployment Rights Act, codified at 38 U.S.C. 4301
129 et seq.

130 (c) For the purposes of this section, the adjutant general of the commonwealth shall
131 perform all duties assigned to the secretaries of defense and labor of the United States under 38
132 U.S.C. 4301 et seq., with assistance from the secretary of labor and workforce development,
133 when so requested by the adjutant general.

134 (d) For purposes of this section, the attorney general of the commonwealth shall perform
135 all duties assigned to the attorney general of the United States under 38 U.S.C. 4301 et seq.

136 (e) For the purposes of this section, the secretary of veterans' services of the
137 commonwealth shall perform all duties assigned to the secretary of veterans affairs of the United
138 States under 38 U.S.C. 4301 et seq.

139 (f) In the case of an action against a private employer under this section, the action may
140 proceed in the district or superior courts of the commonwealth. In the hearing and determination

141 of applications under this section, courts shall have discretion to assess no fees or court costs
142 against a person so applying for such benefits.

143 (g) Any service performed pursuant to this chapter, or similar authority of another state or
144 territory, when in support of a critical homeland security or emergency management operation as
145 determined by the adjutant general shall not be included in the calculation of a person's
146 cumulative period of absence from a position of employment.

147 Section 13A. (a) As used in this section, the following terms shall have the following
148 meanings unless context clearly requires otherwise:-

149 "Military service", shall have the same meaning as defined in the federal
150 Servicemembers Civil Relief Act, 50 U.S.C. App. § 511 (2) and shall include duties performed
151 under this chapter, the appropriate authority of another state or territory or Title 32 of the United
152 States Code.

153 "Service member", shall have the same meaning as defined in the federal
154 Servicemembers Civil Relief Act, 50 U.S.C. App. § 511 (1) and shall include a member of the
155 armed forces of the commonwealth, as defined in section 10, including the state defense force or
156 similar organization composed as permitted by law, the state staff or the armed forces of another
157 state or territory.

158 (b) All members of the armed forces of the commonwealth, including the state defense
159 force or similar organization composed as permitted by law, the state staff and those who reside
160 within the commonwealth pursuant to military service and all members of the armed forces of
161 another state or territory who reside within the commonwealth, ordered to active duty under this
162 chapter, appropriate authority of another state or territory or Title 32 of the United States Code

163 shall be entitled to all rights, protections, privileges and immunities afforded under the federal
164 Servicemembers Civil Relief Act, codified at 50 U.S.C. App. § 501 et seq., except for sections
165 536 and 541 to 549, inclusive, which pertain to life insurance.

166 (c) For the purposes of this section, the adjutant general of the commonwealth shall
167 perform all duties assigned to the secretary concerned under the federal Servicemembers Civil
168 Relief Act, 50 U.S.C. App. § 501 et seq.

169 (d) For purposes of this section, the attorney general of the commonwealth shall perform
170 all duties assigned to the attorney general of the United States under the federal Servicemembers
171 Civil Relief Act, 50 U.S.C. App. § 501 et seq.

172 (e) A person aggrieved by a violation of this section may bring an action in any court of
173 competent jurisdiction whether by way of an original complaint, counter-claim, cross-claim or
174 third party action for damages and equitable or declaratory relief, including an injunction, as the
175 court deems necessary and proper.

176 (f) At least 30 days prior to filing an action pursuant to this section, a written demand for
177 relief identifying the claimant as a service member entitled to relief under this section and
178 reasonably describing the injury or harm suffered shall be mailed to any prospective respondent.
179 Failure to respond within 30 days of receipt shall be deemed a denial of the demand. The
180 demand requirements of this paragraph shall not apply if the claim is asserted by way of
181 counterclaim or cross-claim.

182 (g) The court may award to a claimant who prevails in an action brought under this
183 section the costs of the action, including reasonable attorney fees. If the court finds for the
184 claimant, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If

185 the court finds the complained of act was willful or knowing or that the refusal to grant relief
186 upon demand was made in bad faith, with reason to know that the act complained of violated this
187 section, then the recovery shall be the greater of \$5,000 or 3 times the amount of the damages.

188 (h) Nothing in this section shall be construed to preclude or limit any other remedy
189 otherwise available under law, including consequential and punitive damages or double or treble
190 damages pursuant to chapter 93A.

191 Section 14. The aides-de-camp of the commander-in-chief shall consist of such
192 appointed or detailed aides as the commander-in-chief deems necessary. Officers detailed under
193 this section shall not be relieved from their ordinary national guard duties and may be removed at
194 any time by and in the sole discretion of the commander-in-chief.

195 Section 15. (a) The state staff shall consist of 1 adjutant general, with the grade of major
196 general, who shall be the chief of staff to the commander-in-chief and the chief of the state staff
197 and the officers provided for in this section, each of whom shall perform their duties under the
198 direction of the adjutant general. Officers of the state staff, with the exception of the adjutant
199 general, shall be appointed for an initial period of 6 years, with the opportunity for
200 reappointment every 2 years thereafter. To be eligible for initial appointment on the state staff,
201 an officer shall have federal recognition in an organization or unit of the Massachusetts national
202 guard, army or air. The officer shall thereafter hold the position for the period of appointment or
203 until reaching the age of 65 years, whichever occurs first, unless separated from the position
204 prior to that time by resignation, disability, for cause in accordance with section 29 or by a
205 legally convened court-martial in accordance with this chapter.

206 (b) The adjutant general shall be appointed by the commander-in-chief from those
207 persons who are, or have been, active commissioned officers in the Massachusetts national
208 guard, army or air, for a period of not less than 5 years and who have attained, while serving
209 therein, or in the armed forces of the United States, a grade not lower than that of colonel. The
210 adjutant general shall serve for a term coterminous with that of the commander-in-chief and shall
211 receive the same pay and allowances as an officer of the regular service of corresponding grade
212 with corresponding length of service.

213 The adjutant general shall be charged with carrying out the policies of the commander-in-
214 chief and shall issue orders in the commander-in-chief's name; provided, however, that the
215 adjutant general shall not personally exercise command of troops.

216 The adjutant general shall be the immediate adviser of the commander-in-chief on all
217 matters relating to the military and shall be charged with the planning, development and
218 execution of the program of the military forces of the commonwealth. The adjutant general shall
219 cause the state staff to support the mobilization and demobilization of the organized militia for
220 use in the national defense, for state defense and emergencies.

221 The adjutant general shall hold major organization commanders responsible for the
222 proper training of their commands. All orders and instructions for the government of the militia
223 and of the officers and enlisted persons therein shall be issued and communicated to those
224 concerned through military channels.

225 The adjutant general shall make such returns and reports as may be prescribed by the
226 commander-in-chief or required by the laws or regulations of the commonwealth or of the United
227 States and may detail such officers of appropriate grade and employ such clerks and other

228 assistants as may be necessary in the division at an expense not exceeding the amount so
229 appropriated. The adjutant general shall keep a roster of all veterans of the commonwealth, in
230 alphabetical order by cities and towns, and shall provide, upon request, said rosters to such cities
231 and towns.

232 Unless powers are specifically conferred on the adjutant general by law or regulation, the
233 adjutant general shall have no authority independent from the commander-in-chief, from whom
234 all orders shall emanate, and the acts of the adjutant general shall be regarded as in execution of
235 the orders of the commander-in-chief.

236 Under the control of the commander-in-chief, the adjutant general shall be the executive
237 and administrative head of the military division of the commonwealth. Except as otherwise
238 provided, the adjutant general shall personally approve all contracts and may require personal
239 approval of all expenditures made by the division.

240 (c) There shall be not fewer than 3 and not more than 5 full-time assistant adjutants
241 general appointed by the adjutant general, 1 of whom shall be designated the assistant chief of
242 the state staff, who shall perform such duties delegated to them by the adjutant general or as
243 prescribed in orders and regulations: provided, that at least 1 of the full-time assistant adjutants
244 general shall be an army officer and at least 1 shall be an air officer. The assistant adjutant
245 general who is designated as the assistant chief of the state staff shall be the state finance officer
246 for the receipt, disbursement and accounting for all funds received for the payment, equipment,
247 travel and subsistence of the armed forces of the commonwealth and shall be advanced by the
248 commonwealth, under such rules and regulations as the state comptroller may prescribe, 100 per
249 cent of the pay, allowances and mileage for duty under sections 38, 40, 41 or 60, and shall return

250 the unexpended balance of the sum so advanced as soon as possible, or at such times as the
251 comptroller may require. The assistant adjutant general designated as the assistant chief of the
252 state staff shall provide a bond to the commonwealth for \$20,000 with surety or sureties
253 approved by the commander-in-chief, conditioned upon the faithful performance of all duties as
254 prescribed in this chapter.

255 (d) There shall be 1 full-time state quartermaster appointed by the adjutant general who
256 shall, except as otherwise provided in this chapter and in chapter 344 of the acts of 1936, have
257 the care and control of all land and buildings held for military purposes and all other military
258 property of the commonwealth except property that, by law, is expressly entrusted to the keeping
259 of others. The state quartermaster shall be adviser to the military division on all technical
260 matters involved in the construction, alteration and repair of all structures and installations
261 intended for the use of the armed forces of the commonwealth. The state quartermaster shall
262 provide a bond to the commonwealth for \$20,000 with surety or sureties approved by the
263 commander-in-chief, conditioned upon the faithful performance of all duties as prescribed in this
264 chapter. The state quartermaster shall be clerk of the armory commission established in section
265 18 of chapter 6.

266 (e) There shall be a state surgeon appointed by the adjutant general who shall be adviser
267 to the military division on all matters pertaining to the medical services of the armed forces of
268 the commonwealth. The state surgeon shall be a member of the board established in section 90.

269 (f) There shall be a full-time state judge advocate appointed by the adjutant general who
270 shall be the legal adviser of the military division on all matters referred by law or by the
271 commander-in-chief. The state judge advocate shall examine and report in writing to the

272 commander-in-chief on all proceedings of courts-martial requiring the action of the commander-
273 in-chief and shall be a member of any boards established by sections 52 and 90. The state judge
274 advocate may be detailed by the commander-in-chief to attend any encampment, and during the
275 encampment, shall within the limits of the camp and for a distance of 1 mile outside said limits
276 have the jurisdiction of a district court of all offenses then and there committed.

277 (g) There may be a state inspector general appointed by the adjutant general who shall
278 perform such duties as prescribed in orders by the commander-in-chief.

279 (h) Unless ordered on duty under sections 38, 40, 41 or 60, the officers of the state staff
280 shall respectively receive the following salaries: the assistant adjutants general, the same pay and
281 allowances as an officer of the regular service of corresponding grade of at least lieutenant
282 colonel but not exceeding that of colonel with corresponding length of service; provided,
283 however, that the assistant adjutant general who is designated assistant chief of the state staff
284 shall hold the grade of brigadier general and shall receive the same pay and allowances as an
285 officer of the regular service of corresponding grade with corresponding length of service, but
286 not exceeding that of brigadier general; the state quartermaster, the same pay and allowances as
287 an officer of the regular service of corresponding grade with corresponding length of service but
288 not exceeding that of colonel; the state judge advocate, the same pay and allowances as an
289 officer of the regular service of corresponding grade with corresponding length of service but not
290 exceeding that of colonel; the state surgeon and the state inspector general, the same pay and
291 allowances as officers of the regular service of corresponding grade with corresponding length of
292 service but not exceeding that of colonel for each day of service, not to exceed \$25,000 each per
293 annum.

294 (i) During the absence or disability of an officer of the state staff, or during such time as
295 the officer is in the active military service of the United States, that officer's duties shall be
296 performed by another officer designated in orders by the commander-in-chief.

297 SECTION 12. Sections 16, 17 and 18 of said chapter 33 of the General Laws are hereby
298 repealed.

299 SECTION 13. Section 19 of said chapter 33, as appearing in the 2012 Official Edition, is
300 hereby amended by striking out , in line 16, the words “by his order” and inserting in place
301 thereof the following words:- by order of the commander-in-chief and at the commander-in-
302 chief’s sole discretion.

303 SECTION 14. Said chapter 33 is hereby further amended by striking out sections 19A
304 and 20, as so appearing, and inserting in place thereof the following 2 sections:-

305 Section 19A. The armory commission established by section 18 of chapter 6 and the war
306 records commission shall be within the military division.

307 Section 20. A person shall not be eligible for appointment or to be appointed as an
308 officer in the armed forces of the commonwealth if the individual: is not a citizen of the United
309 States and 18 years of age or over; is under sentence of a court or board which disables such
310 person from holding office or command; is under suspension from command in the armed forces
311 of the United States or of any state; is under sentence of imprisonment by a civilian court,
312 whether suspended or not; or is ineligible for such service under the laws of the United States.
313 No person shall receive a commission in the national guard, army or air unless such person
314 possesses such minimum qualifications as prescribed by the laws of the United States and has
315 qualified for such commission.

316 SECTION 15. Section 21 of said chapter 33, as so appearing, is hereby amended by
317 striking out, in line 3, the words “he is”.

318 SECTION 16. Said section 21 of said chapter 33, as so appearing, is hereby further
319 amended by striking out, in line 4, the word “his” and inserting in place thereof the following
320 word:- the.

321 SECTION 17. Said chapter 33 is hereby further amended by striking out sections 22 to
322 24, inclusive, as so appearing, and inserting in place thereof the following 3 sections:-

323 Section 22.(a) Whenever necessary, there shall be a military service commission, in this
324 section called the commission, consisting of the adjutant general and 6 officers of the
325 Massachusetts national guard, army and air; provided, that 3 of such officers shall be selected
326 from the army national guard and 3 of such officers shall be selected from the air national guard.
327 The commander-in-chief shall initially detail 2 such officers for terms of 1 year each, 2 such
328 officers for terms of 2 years each and 2 such officers for terms of 3 years each. Thereafter all
329 officers shall be detailed to the commission for terms of 3 years by the commander-in-chief.

330 (b) Subject to Article LIII of the Articles of Amendment of the Constitution, a person
331 certified as eligible for any specific grade in the national guard, army or air under the laws of the
332 United States and who is a graduate of the Massachusetts Military Academy shall be eligible for
333 appointment without professional examination.

334 Section 23. (a) Brigadier generals shall be appointed by the commander-in-chief upon
335 recommendation of their superior commander, if any, from the colonels who have had active
336 service for at least 2 years as a colonel.

337 (b) Regimental and separate organization commanders shall be appointed by the
338 commander-in-chief upon the recommendation of superior commanders, if any.

339 (c) All other officers shall be appointed by the commander-in-chief upon the
340 recommendation of appropriate commanders, approved by superior commanders.

341 Section 24. Every commissioned officer, before entering upon the performance of
342 official duties or exercising any command, shall take and subscribe the following oath and
343 declaration:

344 I, _____, do solemnly swear that I will bear true faith and allegiance to the
345 commonwealth of Massachusetts, and will support the constitution thereof and the constitution
346 of the United States, that I will obey the lawful orders of all my superior officers, and that I will
347 faithfully and impartially discharge and perform all the duties incumbent on me as
348 _____ according to the best of my ability and understanding, agreeably to the rules and
349 regulations of the constitution and the laws of the commonwealth and the United States. So help
350 me, God.

351 All officers shall take and subscribe the said oath before any competent authority or an
352 officer qualified under section 81 to administer oaths, except retired officers and aides-de-camp
353 of the commander-in-chief who may take said oath before any competent authority. The
354 following certificate shall be printed on every commission and shall be signed by the person
355 before whom the officer is qualified:

356 This may certify that _____, commissioned as within on this _____ day of
357 _____, A.D., ___ personally appeared and took and subscribed the oaths required by the

358 constitution and laws of this commonwealth and by a law of the United States, as qualification
359 for the discharge of official duties.

360 Before me,_____.

361 SECTION 18. Section 25 of said chapter 33, as so appearing, is hereby amended by
362 striking out, in line 3, the word “his”.

363 SECTION 19. Said section 25 of said chapter 33, as so appearing, is hereby further
364 amended by striking out, in lines 3 and 4, the words “he shall possess” and inserting in place
365 thereof the following word:- possessing.

366 SECTION 20. Section 26 of said chapter 33, as so appearing, is hereby amended by
367 striking out, in line 4, the words “except an air medical group or any army medical battalion”.

368 SECTION 21. Said section 26 of said chapter 33, as so appearing, is hereby amended by
369 striking out the last sentence.

370 SECTION 22. Said chapter 33 is hereby further amended by striking out section 29, as
371 so appearing, and inserting in place thereof the following section:-

372 Section 29. (a) At any time, the moral character, capacity and general fitness for the
373 service of any service member may be investigated and determined by an efficiency board of 3
374 commissioned officers, senior in rank to the service member and designated by the commander-
375 in-chief. One board member shall be a noncommissioned officer senior in rank to the service
376 member if the service member before the board is an enlisted person. Any such investigation and
377 board proceedings shall provide the service member due process consistent with military
378 practice. The investigation may include misconduct in civil life for which the service member is

379 not subject to court-martial. If the findings of the board are unfavorable to the service member
380 and are approved by the commander-in-chief, the service member shall be appropriately
381 disciplined or discharged.

382 (b) A service member may be honorably discharged by the commander-in-chief upon
383 tender of resignation or upon appointment in a regular component or in another reserve
384 component of the armed forces of the United States.

385 (c) The commander-in-chief may discharge a service member who is under sentence of
386 imprisonment by a civilian court, whether suspended or not, or who has been absent without
387 leave for 2 months continuously.

388 SECTION 23. Section 30 of said chapter 33, as so appearing, is hereby amended by
389 striking out, in line 1, the word "Officers" and inserting in place thereof the following words:-
390 Service members.

391 SECTION 24. Said chapter 33 is hereby further amended by striking out sections 31 and
392 32, as so appearing, and inserting in place thereof the following 2 sections:-

393 Section 31. An officer or noncommissioned officer in the military forces of the
394 commonwealth at the age of 65 shall be honorably discharged or, upon request by such officer
395 and pursuant to the eligibility requirements of this section, placed upon the retired list with the
396 highest grade held in the active military service.

397 A member of the armed forces of the commonwealth, with at least a total of 20 years of
398 service as an officer or noncommissioned officer in the armed forces of the commonwealth or
399 the United States, of which at least the last 5 years of service shall have been in the armed forces

400 of the commonwealth or the state staff, may be placed upon the retired list with any grade held
401 by the member in the active military service or 1 grade higher, but not to exceed the grade of
402 major general; provided, however, that any such member who has had federal recognition in the
403 grade of major general may, upon request, be placed upon the retired list in the grade of
404 lieutenant general.

405 Service members on the retired list accepting appointment to or a commission in the
406 active military forces of the commonwealth may again be placed upon said retired list, at their
407 own request, with their former grade on the retired list, or any lower grade.

408 Section 32. The commander-in-chief may order any service member before a medical
409 board, consisting of at least 3 medical officers, and if the board reports such service member to
410 be physically unable to perform the assigned military duties, the commander-in-chief may order
411 the service member discharged or placed on the retired list.

412 SECTION 25. Section 33 of said chapter 33, as so appearing, is hereby amended by
413 striking out, in line 2, the word “him” and inserting in place thereof the following words:- the
414 commander-in-chief.

415 SECTION 26. Section 34 of said chapter 33, as so appearing, is hereby amended by
416 striking out, in line 3, the words “, as he deems necessary”.

417 SECTION 27. Section 39 of said chapter 33, as so appearing, is hereby amended by
418 striking out, in line 1, the word “his” and inserting in place thereof the following words:- the
419 commander-in-chief’s.

420 SECTION 28. Said chapter 33 is hereby further amended by striking out section 41, as
421 so appearing, and inserting in place thereof the following section:-

422 Section 41. (a) The commander-in-chief may issue an order directed to the commander of
423 any organization or unit of the armed forces of the commonwealth directing the command, or
424 any part thereof, to appear at a time and place specified in the order to aid the civil authority in
425 suppressing violations of law, preserving order, affording protection and supporting the laws if 1
426 of the following situations occurs: (i) in the case of a tumult, riot, mob or body of persons acting
427 together by force to violate or resist the laws of the commonwealth or when such tumult, riot or
428 mob is threatened; (ii) in the case of public catastrophe or natural disaster; (iii) if the usual police
429 provisions are inadequate to preserve order and afford protection to persons and property; or (iv)
430 if additional support to civilian law enforcement is necessary. The order may be issued upon the
431 initiative of the commander-in-chief, or at the request of the sheriff of a county, the mayor or city
432 manager of a city or to the selectmen of a town.

433 (b) Military police forces of the national guard, both army and air, may exercise all the
434 powers of constables, except the service of civil process and of police officers and shall appear
435 for duty armed and equipped: (i) at all times upon all land and buildings held for military
436 purposes and all other military property of the commonwealth; or (ii) when on duty within the
437 commonwealth under this chapter or Title 32 of the United States Code; provided, that all such
438 military police forces shall hold the appropriate law enforcement occupational specialty as
439 certified by the armed forces of the United States,

440 SECTION 29. Section 43 of said chapter 33, as so appearing, is hereby amended by
441 striking out, in line 2, the words "or section forty-two".

442 SECTION 30. Section 44 of said chapter 33, as so appearing, is hereby amended by
443 striking out, in lines 1 and 2, the words “, or a precept under section forty-two,”.

444 SECTION 31. Said section 44 of said chapter 33, as so appearing, is hereby further
445 amended by striking out, in line 5, the words “and also by letter.”

446 SECTION 32. Said chapter 33 is hereby further amended by striking out sections 45 to
447 47, inclusive, as so appearing, and inserting in place thereof the following 3 sections:-

448 Section 45. An officer who neglects or refuses to obey an order of the commander-in-
449 chief or an officer or enlisted person who fails to obey an order may be punished in accordance
450 with this chapter.

451 Section 46. The troops shall appear at the time and place appointed by the order, issued
452 under section 41, armed and equipped and shall obey and execute the orders received or any
453 additional orders received from the commander-in-chief.

454 Section 47. No officer or enlisted person of the armed forces of the commonwealth, not
455 on leave of absence, shall be excused from duty if ordered out under section 38, 40 or 41 except
456 upon a physician’s certificate of disability. If an officer or enlisted person is absent without
457 leave and does not produce that certificate to the commanding officer, that service member may
458 be punished in accordance with this chapter for desertion or absence without leave. Sickness
459 shall not be an excuse unless the service member procures that certificate or satisfies the court-
460 martial that the service member was unable to procure the certificate.

461 SECTION 33. Section 48 of said chapter 33, as so appearing, is hereby amended by
462 striking out, in line 2, the words “forty-two,”.

463 SECTION 34. Section 49 of said chapter 33, as so appearing, is hereby amended by
464 striking out, in lines 2 and 3, the words “under a precept in accordance with section forty-two,
465 or”.

466 SECTION 35. Said chapter 33 is hereby further amended by striking out section 50, as
467 so appearing, and inserting in place thereof the following section:-

468 Section 50. (a) The armed forces of the United States and any part of the armed forces of
469 the commonwealth parading or performing any duty according to law shall have the right of way
470 in any street or highway through which they may pass, and drivers of military vehicles may drive
471 such vehicles through an intersection of ways contrary to any traffic signs or signals regulating
472 traffic at such intersection, if a police officer or duly authorized member of the military service is
473 stationed at the intersection to regulate traffic; provided, that the carriage of the United States
474 mails, the legitimate functions of the police and the progress and operation of fire departments
475 shall not be disrupted. Motor vehicles of the military forces of the commonwealth may be
476 equipped with sirens or other audible warning devices and with visible warning devices as
477 provided in section 7E of chapter 90.

478 (b) A vehicle owned or operated by a designated member of the armed forces of the
479 commonwealth who is assigned public safety duties that require immediate emergency response
480 to incidents or events, such as emergency response to hazardous materials or weapons of mass
481 destruction incidents may, with prior written authorization by the adjutant general, and only by
482 authority of a permit issued by the registrar of motor vehicles, have mounted thereon flashing,
483 rotating or oscillating red lights. Said emergency lights may only be activated when
484 circumstances reasonably require an immediate emergency response. Upon termination of the

485 duties which warranted the issuance of the permit, the adjutant general shall immediately notify
486 in writing the registrar of motor vehicles who shall forthwith revoke such red light permit. Upon
487 revocation, the registrar of motor vehicles shall notify the owner and operator of the vehicle for
488 which such permit was issued and the owner and operator shall thereafter be subject to a fine of
489 not less than \$100 nor more than \$300, unless otherwise provided.

490 SECTION 36. Section 51 of said chapter 33, as so appearing, is hereby amended by
491 inserting after the word “disaster”, in line 6, the following words:-, threats to homeland or
492 national security

493 SECTION 37. Said chapter 33 is hereby further amended by striking out section 53, as
494 so appearing, and inserting in place thereof the following section:-

495 Section 53. No officers or enlisted persons shall be liable, either civilly or criminally, for
496 any damage to property or injury to any person, including consequential death, caused by them
497 or by their order, while performing any military duty lawfully ordered under this chapter, unless
498 the act or order causing such damage or injury was manifestly beyond the scope of the authority
499 of such officers or enlisted persons and except as otherwise provided by chapter 258.

500 SECTION 38. Section 54 of said chapter 33, as so appearing, is hereby amended by
501 striking out, in line 2, the words “forty, forty-one, or forty-two,” and inserting in place thereof
502 the following words:- 40 or 41.

503 SECTION 39. Section 55 of said chapter 33, as so appearing, is hereby amended by
504 striking out, in line 9, the word “him” and inserting in place thereof the following words:- the
505 adjutant general.

506 SECTION 40. Section 56 of said chapter 33, as so appearing, is hereby amended by
507 striking out, in line 4, the word “he” and inserting in place thereof the following words:- the
508 commander-in-chief.

509 SECTION 41. Said chapter 33 is hereby further amended by striking out section 57, as
510 so appearing, and inserting in place thereof the following section:-

511 Section 57. Except while on duty under section 38, 40, 41 or 60 or in obedience to the
512 commander-in-chief, no officers or enlisted persons shall be required to perform military duty
513 during the time when polls are open for an election in the city or town where they reside.
514 Officers parading their unit or ordering it to duty, contrary to this section, shall be liable to trial
515 and punishment in accordance with this chapter.

516 SECTION 42. Said chapter 33 is hereby further amended by striking out section 59, as
517 so appearing, and inserting in place thereof the following section:-

518 Section 59. (a) An employee of the commonwealth in the service of the armed forces of
519 the commonwealth or a reserve component of the armed forces of the United States shall be
520 entitled to receive pay without loss of ordinary remuneration as a public employee during annual
521 training under section 60 or drills and parades under section 61, not exceeding 34 days in any
522 state fiscal year and not exceeding 17 days in any federal fiscal year, and shall not lose any
523 seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned
524 overtime.

525 (b) An employee of the commonwealth in the service of the armed forces of the
526 commonwealth under sections 38, 40 or 41 shall be entitled to receive pay without loss of
527 ordinary remuneration as a public employee and shall not lose any seniority or any accrued

528 vacation leave, sick leave, personal leave, compensation time or earned overtime during the first
529 30 consecutive days of any mission. Thereafter, any such ordinary remuneration shall be
530 reduced by any amount received either from the United States or the commonwealth as base pay
531 for military service performed during the same pay period, and there shall be no loss of any
532 seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned
533 overtime. National guard duty performed under Title 32 of the United States Code shall not be
534 deemed service in the armed forces of the commonwealth under sections 38, 40 or 41 for the
535 purposes of this section.

536 (c) An employee of the commonwealth in the armed forces of the commonwealth
537 performing duty under Titles 10 or 32 of the United States Code shall be paid the regular base
538 salary as a public employee for each pay period of such military leave of absence, reduced by
539 any amount received either from the United States or the commonwealth as base pay for military
540 service performed during the same pay period, and shall not lose any seniority or any accrued
541 vacation leave, sick leave, personal leave, compensation time or earned overtime.

542 (d) An employee of a county, city or town within the commonwealth which, by vote of its
543 county commissioners or city council or of its inhabitants at a town meeting, accepts this section,
544 or has accepted similar provisions of earlier laws, shall be entitled to the benefits and protections
545 of this section or the benefits of the accepted earlier law.

546 SECTION 43. Section 59A of said chapter 33 is hereby repealed.

547 SECTION 44. Section 61 of said chapter 33, as appearing in the 2012 Official Edition, is
548 hereby amended by striking out subsection (a) and inserting in place thereof the following
549 subsection:-

550 (a) In addition to the duty required by sections 38, 40, 41 or 60, every unit of the armed
551 forces of the commonwealth, except the state defense force or a similar organization composed
552 as permitted by law, shall assemble for training at least 48 times in each year, and more often if
553 so directed by the unit or organization commander. Organization drills and parades may be held
554 in place of unit drills, and transportation to and from the place of such drills and parades shall be
555 furnished for the units composing the organization if authorized by the commander-in-chief.

556 SECTION 45. Section 63 of said chapter 33 is hereby repealed.

557 SECTION 46. Said chapter 33 is hereby further amended by striking out section 64, as
558 appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

559 Section 64. The commander-in-chief may exclude traffic from highways during target
560 practice or maneuvers of any organization or unit of the armed forces of the commonwealth or
561 the United States or of any state thereof, if public convenience or safety so requires.

562 SECTION 47. Section 65 of said chapter 33, as so appearing, is hereby amended by
563 striking out, in line 2, the word "his" and inserting in place thereof the following word:- any.

564 SECTION 48. Said section 65 of said chapter 33, as so appearing, is hereby further
565 amended by striking out, in lines 4 to 5, the words "his leave" and inserting in place thereof the
566 following word:- authorization.

567 SECTION 49. Said chapter 33 is hereby further amended by striking out sections 66 and
568 67, as so appearing, and inserting in place thereof the following 2 sections:-

569 Section 66. Whoever willfully obstructs, interferes with or hinders an officer or enlisted
570 person while on duty or at any parade, drill or assembly for military purposes may be detained at

571 the discretion of the commanding officer and delivered into the custody of a police officer for
572 examination or trial before a court having jurisdiction. A violation of this section, section 65 or
573 123 or an individual who obstructs or interferes with the armed forces of the United States or any
574 part of the armed forces of the commonwealth in the exercise or enjoyment of the right of way
575 granted by section 50 shall be punished by a fine of not more than \$1,000 or by imprisonment in
576 a house of correction for not less than 30 days nor more than 2 ½ years or by imprisonment in
577 the state prison for not more than 5 years, or by both such fine and imprisonment.

578 Section 67. (a) Each member, who completes 3 years of honorable service in the armed
579 forces of the commonwealth, shall be awarded a medal and for each additional 3 years of like
580 service a clasp to be affixed to the ribbon pendant thereof. Members of the armed forces of the
581 commonwealth, active, retired or honorably discharged, who have served in the armed forces of
582 the United States in time of war and have been honorably discharged shall receive a clasp
583 indicative of such service, to be affixed to the ribbon pendant of the medal herein provided.

584 (b) The adjutant general and 2 field grade officers of the armed forces of the
585 commonwealth, detailed by the commander-in-chief, shall act as a medal of valor commission
586 and may receive recommendations, through military channels, for the award of the medal of
587 valor to members of the armed forces of the commonwealth, who, by reason of conspicuous
588 gallantry at the risk of their own life, above and beyond the call of duty, while on military
589 service, are recommended for the award of said medal of valor.

590 (c) The adjutant general and 2 field grade officers of the armed forces of the
591 commonwealth, detailed by the commander-in-chief, shall constitute a commission to receive
592 recommendations, through military channels, for the award of the Massachusetts military medal

593 to a member of the armed forces of the commonwealth who, while on military service,
594 performed a singularly meritorious act of heroism which distinguished that service member
595 above peers but to a lesser degree than that required for awarding of the medal of valor.

596 (d) The adjutant general and 2 field grade officers of the armed forces of the
597 commonwealth, detailed by the commander-in-chief, shall act as a Massachusetts medal of merit
598 commission, and may receive recommendations, through military channels, for the award of the
599 medal of merit to members of the armed forces of the commonwealth, the United States, any
600 other state or territory of the United States or any other country who have distinguished
601 themselves by exceptionally meritorious conduct in performing outstanding services while
602 members of the armed forces of the commonwealth, the United States, any other state or territory
603 of the United States or any other country.

604 (e) The adjutant general may receive recommendations, through military channels, for the
605 award of the Massachusetts commendation medal to members of the armed forces of the
606 commonwealth, the United States, any other state or territory of the United States or any other
607 country who have distinguished themselves by heroism, meritorious achievement or meritorious
608 service while members of the armed forces of the commonwealth, the United States, any other
609 state or territory of the United States or any other country.

610 (f) The adjutant general may receive recommendations, through military channels, for the
611 award of the Massachusetts achievement medal to members of the armed forces of the
612 commonwealth, the United States, any other state or territory of the United States, or any other
613 country who have distinguished themselves by meritorious service or achievement to a lesser
614 degree than required for award of the commendation medal while members of the armed forces

615 of the commonwealth, the United States, any other state or territory of the United States, or any
616 other country.

617 (g) Commissions constituted under subsections (b), (c) and (d) shall, after careful
618 investigation, report their findings and recommendations to the commander-in-chief, who, if the
619 award appears justified, shall confer upon the member the medal recommended.

620 Not more than 1 medal of valor, Massachusetts military medal, medal of merit,
621 commendation medal or achievement medal shall be awarded to any person; provided, however,
622 that a suitable clasp shall be awarded, under the same conditions.

623 The design of the medals referred to in this section shall be approved by the art
624 commission for the commonwealth.

625 The Massachusetts medal of valor, military medal, medal of merit, commendation medal
626 and achievement medal may be awarded posthumously.

627 SECTION 50. Said chapter 33 is hereby further amended by striking out section 69, as
628 so appearing, and inserting in place thereof the following section:-

629 Section 69. The military courts of the armed forces of the commonwealth shall be
630 general courts-martial, special courts-martial and summary courts-martial. The military courts
631 shall be constituted like, and have cognizance of the same subjects, and possess like powers,
632 except as to punishment, as similar courts provided for by the laws and regulations governing the
633 armed forces of the United States, and proceedings of courts-martial shall follow the forms and
634 modes of procedure prescribed for said similar courts, except as expressly modified by this

635 chapter and in accordance with the rules and regulations made and published by the commander-
636 in-chief or a designee.

637 SECTION 51. Section 70 of said chapter 33 is hereby repealed.

638 SECTION 52. Said chapter 33 is hereby further amended by striking out sections 71 to
639 74, inclusive, as appearing in the 2012 Official Edition, and inserting in place thereof the
640 following 4 sections:-

641 Section 71. General courts-martial of the armed forces of the commonwealth may be
642 convened by the commander-in-chief and may impose 1 or more of the following punishments or
643 sentences for each offense: (1) fine, not exceeding \$2,000; (2) forfeiture of pay and allowances;
644 (3) reprimand; (4) dismissal or dishonorable discharge from the service; (5) reduction of
645 noncommissioned officers; or (6) confinement for a period not to exceed that provided for by the
646 laws and regulations governing the armed forces of the United States except as expressly
647 modified by this chapter.

648 Section 72. Special courts-martial may try any person subject to military law, except a
649 commissioned officer, for a crime or offense made punishable by the laws and regulations
650 governing the armed forces of the United States or by this chapter. Special courts-martial shall
651 have the same powers of punishment as general courts-martial, except that fines imposed shall
652 not exceed \$1,000.

653 Section 73. Summary courts-martial may try enlisted personnel for any non-capitol
654 offense made punishable by the laws and regulations governing the armed forces of the United
655 States or by this chapter. Noncommissioned officers shall not be tried by summary courts-
656 martial if they object thereto before arraignment. Summary courts-martial may impose a fine,

657 not exceeding \$250 for any single offense and may reduce enlisted personnel. The proceedings
658 of such court shall be informal and the record of the court shall be substantially the same as that
659 prescribed for the armed forces of the United States.

660 Section 74. (a) Under such regulations as the commander-in-chief may prescribe, a
661 commanding officer may, in addition to or in lieu of admonition or reprimand, impose 1 of the
662 following disciplinary punishments for minor offenses without the intervention of a court-
663 martial:

664 (1) upon any member of the command, the withholding of privileges for a period
665 not to exceed 2 consecutive weeks or restriction to certain specified limits for a similar period
666 and the imposition of a fine not exceeding \$200 for a single offense; or

667 (2) upon enlisted personnel of the command, extra duties for a period not to
668 exceed 2 consecutive weeks and not to exceed 2 hours per day or reduction to the next inferior
669 grade.

670 (b) A person punished under this section who considers the punishment unjust or
671 disproportionate to the offense may, through the proper channel, appeal to the next superior
672 authority. The appeal shall be promptly forwarded and decided; provided, however, that the
673 person punished may in the meantime be required to undergo the punishment adjudged. The
674 officer who imposed the punishment, that officer's successor in command and superior authority
675 may suspend, set aside or remit any part or amount of the punishment and may restore all rights,
676 privileges and property affected.

677 (c) The imposition and enforcement of disciplinary punishment under this section for any
678 act or omission shall not be a bar to trial by court-martial for a serious crime or offense arising

679 out of the same act or omission that is not properly punishable under this section; provided,
680 however, that the accused may show that a disciplinary punishment has been enforced upon trial
681 and when so shown it shall be considered in determining the measure of punishment to be
682 adjudged if the accused is found guilty.

683 SECTION 53. Section 75 of said chapter 33 is hereby repealed.

684 SECTION 54. Said chapter 33 is hereby further amended by striking out sections 77 and
685 78, as appearing in the 2012 Official Edition, and inserting in place thereof the following 2
686 sections:-

687 Section 77. The senior member of a court-martial and summary court officers may issue
688 warrants to arrest accused persons and to bring an accused person before the court for trial
689 whenever the person has disobeyed a written order from the convening authority, delivered to the
690 person with a copy of the charges and directing the person to appear before the court. As in
691 actions before civilian courts, the officials may issue subpoenas, enforce the attendance of
692 witnesses and the production of books and documents and sentence for a refusal to be sworn or
693 to answer.

694 Section 78. (a) All processes and sentences of courts-martial shall be executed by an
695 officer qualified to serve criminal process. Pretrial confinement or commitment under the
696 sentences may be made to any jail, house of correction or prison in the commonwealth. The
697 master or keeper of the jail, house of correction or prison to which a person is sentenced shall
698 receive and detain the person in the same manner as if the person was sentenced by a civilian
699 court. The necessary charges shall be paid by the commonwealth and approved by the adjutant
700 general.

701 (b) All fines assessed by a court-martial and collected or withheld shall be paid to the
702 commonwealth through the adjutant general subject to the regulations as the adjutant general
703 may prescribe.

704 SECTION 55. Section 82 of said chapter 33, as so appearing, is hereby amended by
705 striking out, in line 3, the word “civil” and inserting in place thereof the following word:-
706 civilian.

707 SECTION 56. Said chapter 33 is hereby further amended by striking out section 83, as so
708 appearing, and inserting in place thereof the following section:-

709 Section 83. (a) For duty performed under sections 60 and 61 by members of the armed
710 forces of the commonwealth not serving in a federal duty status, there may be allowed and paid
711 from funds appropriated for that purpose the same rate of pay of like grade as they would receive
712 if they were on active duty status in the armed forces of the United States with less than 2 years
713 service and subsistence, travel or other allowances as the adjutant general may authorize.

714 (b) For duty performed under sections 38, 40 and 41, there shall be allowed and paid to
715 members of the armed forces of the commonwealth from funds appropriated for that purpose the
716 same rate of base pay for length of service and allowances for housing and subsistence as if they
717 were on active duty status in the armed forces of the United States; provided, however, that the
718 compensation shall not be less than \$100 per day and shall be subject to subsection (c).

719 (c) For duty performed under said sections 38, 40 and 41 and section 60, the pay and
720 allowances authorized under this section shall be reduced by any amounts received from the
721 United States government as pay or allowances for military service performed during the same
722 pay period.

723 SECTION 57. Section 85 of said chapter 33, as so appearing, is hereby amended by
724 striking out, in line 3, the words “, forty-two”.

725 SECTION 58. Sections 86 and 87 of said chapter 33 are hereby repealed.

726 SECTION 59. Said chapter 33 is hereby further amended by striking out section 88, as
727 appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

728 Section 88. An officer or enlisted person of the military division, while performing any
729 duty lawfully ordered under this chapter, or a person who is not a member of the armed forces of
730 the commonwealth but is the owner or is employed by the owner of a motor vehicle lawfully
731 loaned to or hired by the commonwealth under section 89 and whose services are loaned or given
732 to the commonwealth for any purpose set forth in said section, or a person rendering assistance
733 to any of the armed forces of the commonwealth in connection with the use of a motor vehicle
734 under section 89 by request or order of any responsible officer of said armed forces and who by
735 reason of such voluntary action, employment or assistance and without fault or neglect on the
736 part of the person, receives an injury, is disabled or contracts a sickness or disease which
737 incapacitates the person from pursuing the person’s usual business or occupation shall, during
738 the period of incapacity, receive compensation to be fixed by a board appointed under section 90
739 to inquire into the claim and actual and necessary expenses for medical services and care,
740 medicines and hospitalization or replacement or repair of eyeglasses, dentures or prosthetic
741 devices worn or carried. If a death results from such injury, sickness or disease, except in the
742 case of a death for which compensation is payable under the second paragraph of this section,
743 compensation shall be paid to the dependents of the decedent, as determined under clause (3) of
744 section 1 and section 32 of chapter 152, in the amounts provided by and otherwise subject to

745 section 31 of said chapter 152; provided, however, that dependents other than widows and
746 children shall receive compensation to be fixed by the board which shall exercise all the powers
747 given by said chapter 152 to the division of industrial accidents.

748 If the death of a member of the Massachusetts national guard results from injury, sickness
749 or disease received while in the line of duty pursuant to orders under titles 10 and 32 of the
750 United States Code or this chapter and the injury, sickness or disease resulting in the death was
751 not the result of the decedent's fault or neglect, a single payment of \$100,000 shall be paid to the
752 surviving spouse. If there is no surviving spouse, the amount shall be paid to the children of the
753 decedent in equal shares. If there is no surviving spouse and no children, the surviving mother
754 and father of the decedent, if the father and mother were dependent on the decedent for support
755 at the time of the decedent's death, shall each receive \$50,000. If only 1 parent was dependent
756 on the decedent for support at the time of the decedent's death, the parent shall receive \$100,000.
757 The standard for dependency shall be determined in accordance with said clause (3) of said
758 section 1 and said section 32 of said chapter 152. All claims presented under this section shall be
759 made in accordance with the procedure provided for under section 90.

760 SECTION 60. Section 89 of said chapter 33, as so appearing, is hereby amended by
761 striking out, in line 10, the words "or forty-two".

762 SECTION 61. Said chapter 33 is hereby further amended by striking out section 90, as
763 so appearing, and inserting in place thereof the following section:-

764 Section 90. Claims against the commonwealth for compensation under section 88 shall
765 be referred to a board of 3 officers, including the state judge advocate and a medical or medical
766 service officer, appointed by the commander-in-chief. In consideration of the claim, the board

767 shall, except as otherwise provided in section 88, take into account any compensation received
768 by the claimant or the claimant's dependents from the United States. The board shall have the
769 same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend,
770 testify and produce books and papers and to punish their failure to do so as is possessed by a
771 general court-martial. The findings of the board shall be subject to the approval of the adjutant
772 general. The amounts so found due and so approved shall be a charge against the
773 commonwealth and shall be paid in the same manner as other military accounts.

774 SECTION 62. Said chapter 33 is hereby further amended by striking out section 94, as
775 so appearing, and inserting in place thereof the following section:-

776 Section 94. No person performing any services under section 88 shall, by reason of the
777 services, be considered an employee of the commonwealth or, if not already an officer or
778 enlisted person of the military division, to be an officer or enlisted person, or to be entitled to
779 receive any pension or retirement allowance, or to have acquired any right or to be entitled to
780 receive any other benefit or compensation. A person claiming the right to receive compensation
781 under section 88 shall, within a reasonable time after receiving an injury or contracting a
782 sickness or disease while performing services referred to in said section 88, give to the adjutant
783 general notice of the name and place of residence of the person and the time, place and cause of
784 the injury, sickness or disease. The notice shall be in writing and signed by the person claiming
785 compensation or by someone on behalf of the person.

786 SECTION 63. Said chapter 33 is hereby further amended by striking out sections 96 and
787 97, as so appearing, and inserting in place thereof the following 2 sections:-

788 Section 96. Organization and unit funds shall be maintained and conducted as the
789 commander-in-chief may prescribe in regulations. The administration of the funds by the officer
790 designated in regulations to have custody of the funds shall be a duty of the office of the officer.
791 Upon the disbandment of any organization or unit maintaining a fund as provided in this section,
792 the adjutant general shall immediately become custodian or treasurer of the fund and shall
793 distribute the funds to organizations or units as the adjutant general may determine to be
794 equitably entitled to the funds or, if no organization or unit is so entitled, shall draw a check for
795 the total amount on deposit in favor of the state treasurer who shall hold the funds or shall
796 expend them as the general court may prescribe; provided, however, that in the case of
797 organizations or units ordered into the active service of the United States, the adjutant general
798 may act as custodian of the funds during the period of active service of the United States.

799 Section 97. There may annually be allowed and paid quarterly from money appropriated
800 for the purpose in substantially equal installments under regulations as may be promulgated by
801 the commander-in-chief to the organizations and units of the armed forces of the commonwealth,
802 when not in federal service, appropriate sums for administration and maintenance, including
803 telephone, postage, printing, office and other necessary supplies not available through issue, for
804 athletic or recreational equipment for the common use of enlisted personnel for clerical
805 assistance, the repair and alteration of uniforms and other military purposes as may be approved
806 by the commander-in-chief.

807 SECTION 64. Said chapter 33 is hereby further amended by striking out section 99, as
808 so appearing, and inserting in place thereof the following section:-

809 Section 99. Whoever, not being in the service of the armed forces of the United States or
810 of the commonwealth, appears in public wearing the distinctive uniform of any branch of such
811 service shall be punished by a fine of not more than \$1,000 or by imprisonment for not more
812 than 6 months or both. This section shall not apply to: (i) any person discharged from such
813 service, for any cause other than the own unworthiness of the person, wearing a uniform to take
814 part in any military or naval parade or on any occasion of ceremony; or (ii) any person in the
815 service of the armed forces of the United States, discharged for any cause other than the own
816 unworthiness of the person, wearing the uniform from the place of discharge to the home of the
817 person. A person found to have violated this section may be arrested without a warrant by any
818 officer qualified to serve criminal process; provided, however, that nothing in this section shall
819 subject to penalty any action with respect to the wearing of uniforms of the armed forces of the
820 United States which is authorized by federal law.

821 SECTION 65. Section 100 of said chapter 33 is hereby repealed.

822 SECTION 66. Said chapter 33 is hereby further amended by striking out section 103, as
823 appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

824 Section 103. An officer or enlisted person shall be responsible for the proper care,
825 safekeeping and return, when so directed, of all items of military property issued by the United
826 States or the commonwealth. Service members shall use the items of military property for
827 military purposes only and, upon being discharged, transferred or otherwise separated from
828 military service or upon the demand of a commanding officer, shall immediately deliver the
829 items to the commanding officer or any officer ordered to receive them in good order and
830 condition, fair wear of the items excepted.

831 SECTION 67. Section 104 of said chapter 33 is hereby repealed.

832 SECTION 68. Section 105 of said chapter 33, as appearing in the 2012 Official Edition,
833 is hereby amended by striking out, in lines 16 and 17, the words “by him”.

834 SECTION 69. Section 106 of said chapter 33, as so appearing, is hereby amended by
835 striking out, in line 4, the word “his” and inserting in place thereof the following words:- the
836 officer’s or enlisted person’s.

837 SECTION 70. Said chapter 33 is hereby further amended by striking out sections 107 and
838 108, as so appearing, and inserting in place thereof the following 2 sections:-

839 Section 107. A person who knowingly purchases, retains or has possession of any item
840 of military property of the United States or the commonwealth, unless the military property was
841 issued to the person or is in possession in accordance with law, shall be punished by a fine not to
842 exceed 10 times the value of the military property.

843 Section 108. An officer or noncommissioned officer of the armed forces of the
844 commonwealth to whom monies or public property are at any time issued may be required to
845 give bond to the commonwealth, in an amount and with such sureties as may be determined by
846 the commander-in-chief and conditioned upon the faithful performance of the duties of the
847 officer, accounting properly for all monies or property received by virtue of the assignment and
848 duties during the term of the bond and turning over to the immediate successor of the officer or
849 other officer designated by the commander-in-chief all records, reports, monies or property for
850 which the officer is accountable as provided in section 112.

851 SECTION 71. Section 109 of said chapter 33, as so appearing, is hereby amended by
852 striking out, in line 2, the words “he deems” and inserting in place thereof the following words:-
853 the adjutant general considers.

854 SECTION 72. Section 110 of said chapter 33, as so appearing, is hereby amended by
855 striking out, in lines 2 to 3, the words “ninety-six,”.

856 SECTION 73. Said chapter 33 is hereby further amended by striking out sections 111
857 and 112, as so appearing, and inserting in place thereof the following 2 sections:-

858 Section 111. (a) An officer or enlisted person shall be responsible for military property
859 of the United States and the commonwealth received by the officer or enlisted person and the
860 officer or enlisted person shall not sell, loan or transfer the military property or any part of the
861 property without the authority of the commander-in-chief. An officer or enlisted person shall be
862 liable to the commonwealth for all military property that is defaced, injured, destroyed or lost by
863 neglect or default of the officer or enlisted person or for its value, which shall be recovered in an
864 action of tort brought by the state judge advocate in the name of the commonwealth.

865 (b) A service member shall exercise the strictest care and vigilance for the preservation of
866 the individual and unit clothing and equipment and other property furnished by the service
867 member’s commands and, in the case of any loss of, or damage to, the clothing, equipment or
868 other property by the service member’s neglect or default, the service member shall be subject to
869 appropriate punishment under this chapter.

870 (c) If an officer or enlisted person neglects or refuses to return any military property of
871 the United States or the commonwealth or of any unit, or to account satisfactorily for it to the
872 officer responsible for its custody or to the officer ordered to receive it, the custodian or officer

873 may make a written complaint directly to the colonel of state police that describing the missing
874 property. Upon receipt of the complaint, the state police shall make diligent search for the
875 property and shall take possession of the military property and turn the military property over to
876 the officer responsible for its custody.

877 Section 112. (a) An officer of the military forces of the commonwealth, upon vacating an
878 office, shall turn over to an immediate successor or other officer designated by the commander-
879 in-chief all records, reports and military property in the officer's possession belonging or in any
880 way pertaining to the office.

881 (b) Upon the disbandment of any unit which has received military property for military
882 use, the service members responsible for the property shall return the property to the officer
883 ordered to receive the property.

884 (c) Until the service member responsible for the military property or a legal
885 representative receives from the adjutant general notice that the property accounts of the service
886 member have been found correct, the liability of the service member or the estate of the service
887 member for military property shall continue. Upon the death or desertion of a service member
888 responsible for military property, the immediate commanding officer shall immediately cause the
889 property to be collected and a correct inventory made by physical count and examination. The
890 inventory shall be forwarded to the adjutant general and compensation for any shortage may be
891 recovered as provided in subsection (a) of section 111.

892 SECTION 74. The second sentence of section 113 of said chapter 33, as so appearing, is
893 hereby amended by inserting after the word "sold", in line 4, the following words:- or otherwise
894 disposed of.

895 SECTION 75. Section 114 of said chapter 33, as so appearing, is hereby amended by
896 striking out, in line 1, the words “governor, with the advice and consent of the council,” and
897 inserting in place thereof the following words:- commander-in-chief.

898 SECTION 76. Section 115 of said chapter 33 is hereby repealed.

899 SECTION 77. Section 116 of said chapter 33, as appearing in the 2012 Official Edition,
900 is hereby amended by striking out, in lines 1 and 2, the words “governor and council” and
901 inserting in place thereof the following words:- commander-in-chief.

902 SECTION 78. Section 121 of said chapter 33 is hereby repealed.

903 SECTION 79. Said chapter 33 is hereby further amended by striking out sections 122
904 and 123, as appearing in the 2012 Official Edition, and inserting in place thereof the following 2
905 sections:-

906 Section 122. (a) Armories and air installations provided for the armed forces of the
907 commonwealth shall be used by them for the military purposes or purposes incidental to military
908 purposes as designated by the commander-in-chief. If not in use for military purposes, a state
909 armory or air installation may be used without charge and subject only to rules and regulations
910 promulgated by the commander-in-chief for social activities or athletics by military units
911 stationed in the armory or air installation. Non-military use of an armory under this section shall
912 not be permitted if the non-military use interferes with its military use.

913 (b) An armory or air installation may be used for the purposes set forth in subsections (c)
914 and (e) in accordance with terms and conditions prescribed by the commander-in-chief, upon
915 application for those purposes to the adjutant general through the military custodian of the

916 armory or air installation. No application shall be granted unless it is approved by the military
917 custodian and the adjutant general and contains a certificate from each unit commander whose
918 drill or other military duty is to be changed or modified by the use which states the approval of
919 the application and that the change or modification shall not in any way be detrimental to the unit
920 or to its training and states in detail the manner in which the change or modification is to be
921 effected. An application may, after the lapse of 1 year from the date of its receipt, be destroyed
922 or disposed of by order of its lawful custodian and any proceeds received in the course of its
923 disposal shall be paid to the commonwealth.

924 (c) Subject to subsection (b), armories or air installations may be used temporarily for the
925 following public purposes:

926 (i) a public meeting, hearing or activity held by a city, town, state or federal
927 department, board, commission or similar entity;

928 (ii) an examination conducted by a state department, board, commission or similar
929 entity;

930 (iii) a meeting of an organization composed of veterans of the armed forces of the
931 commonwealth or the armed forces of the United States, their auxiliaries, drill teams, bands and
932 drum corps of organizations of veterans or a board of trade, a chamber of commerce or a meeting
933 to raise funds for any non-sectarian charitable or non-sectarian educational purpose;

934 (iv) a meeting to raise funds for a benefit association of police officers or
935 firefighters;

936 (v) elections, primaries or caucuses and town meetings;

937 (vi) a meeting or rally of a political party or a municipal party, as defined in
938 section 1 of chapter 50, conducted by the duly constituted local committee of the party; provided,
939 however, that no party shall be permitted to use the same armory more than twice in the same
940 year; and

941 (vii) a meeting of any organization of boys and girls under 18 years of age or any
942 student military organization sponsored or sanctioned by the armed forces of the commonwealth
943 or the armed forces of the United States; provided, however, that, upon application to the
944 adjutant general and on terms and conditions prescribed by the adjutant general, the
945 organizations may be permitted to use for parade or drill purposes the grounds owned by the
946 commonwealth as are used by the armed forces.

947 (d) Compensation for the use of an armory or air installation under subsection (c) shall be
948 fixed by the adjutant general with the approval of the armory commission and shall be at least
949 sufficient to cover all expenses of lighting, heating and guarding the armory or air installation
950 and similar expenses. The compensation shall be paid to the adjutant general who shall pay the
951 same compensation to the commonwealth.

952 (e) Subject to subsection (b), an armory or air installation may be used for:

953 (i) athletic contests and social or civic activities conducted by responsible
954 organizations or associations;

955 (2) a period not exceeding 9 days for any exhibition of the products of labor,
956 agriculture or industry, including any automobile exhibition conducted by a responsible
957 organization, and, to decorate the premises, for such additional time immediately preceding said
958 period, not exceeding 18 hours, as may be approved by the military custodian and the adjutant

959 general and, to remove decorations, exhibits or equipment, for such additional time immediately
960 following said period, not exceeding 18 hours, as may so be approved; provided, however, that
961 the compensation for such uses shall not be less than the fair rental value, for the entire period
962 during which the armory or air installation shall be occupied by the exhibit or equipment, of halls
963 of a similar nature in the same or a similar city or town, together with a sum sufficient to cover
964 the expenses of providing guards and labor as may be necessary to protect the armory or air
965 installation while so used and to remove and replace items of military equipment while so used.
966 Subject to the foregoing limitation, the compensation shall be fixed by the adjutant general and
967 shall be paid as provided in subsection (d).

968 (f) Each organization using an armory or air installation under subsections (c) or (e) shall,
969 under rules and regulations prescribed by the commander-in-chief, pay for any damage to or loss
970 of any property or equipment and shall pay for any personal injury for which the adjutant general
971 or other state official may be legally liable. The rules and regulations may also require that the
972 organization shall file with the adjutant general a bond in the form and amount and containing
973 conditions as the rules and regulations may prescribe.

974 (g) The adjutant general may enter into interagency agreements with other city, town,
975 state or federal agencies and may charge the agencies for the use of any armory, air installation
976 or other facility under the control of the adjutant general.

977 Section 123. Every officer whose unit occupies, assembles or drills in any armory, air
978 installation, drill hall or building used according to law for that purpose shall have control of the
979 premises during the period of occupation, subject to orders of superior officers, and any person
980 intruding contrary to commander's orders or orders of that commander's superior officers or who

981 interrupts, disturbs, obstructs or insults the troops or any of them so occupying the premises may
982 be ejected, forcibly if necessary, or may be dealt with as provided in sections 65 and 66 for like
983 offences at the discretion of the officer or of that officer's superior officers; provided, however,
984 that, in armories not classified as state armories, reasonable inspection of the premises may be
985 made by the mayor or city manager or the selectmen or the owners of the premises.

986 SECTION 80. Section 124 of said chapter 33 is hereby repealed.

987 SECTION 81. Said chapter 33 is hereby further amended by striking out section 126, as
988 appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

989 Section 126. The armory commission shall rebuild, remodel or repair state armories or
990 air installations damaged or destroyed and may reconstruct, remodel, enlarge or otherwise
991 improve existing state armories or air installations if it deems the needs of the service so require.
992 The commission shall construct additional armories or air installations until the armed forces of
993 the commonwealth shall be provided with adequate quarters.

994 The armory commission shall designate the location of armories and air installations to
995 be constructed and shall immediately, on behalf of the commonwealth, take by eminent domain
996 under chapter 79 or acquire by purchase or otherwise suitable lots of land in the respective cities
997 or towns designated and shall erect, furnish and equip thereon armories or air installations
998 sufficient for 1 or more units of the armed forces of the commonwealth as it considers necessary;
999 provided, however, that no land shall be acquired and no buildings shall be erected,
1000 reconstructed, remodeled or enlarged until the site and plans and the total amount to be
1001 authorized for the site and plans have been approved by the commander-in-chief.

1002 The armory commission may, on behalf of the commonwealth and with the approval of
1003 the commander-in-chief, take by eminent domain under chapter 79 or acquire by purchase or
1004 lease, land suitable for ranges for target practice for the armed forces of the commonwealth and
1005 upon such land may, with the approval of the commander-in-chief, erect such buildings and
1006 construct such facilities as may be needed.

1007 Land acquired by purchase under this section shall be paid for by the commonwealth
1008 upon the execution of such a release or conveyance as shall be prescribed by the attorney
1009 general.

1010 The armory commission may, on behalf of the commonwealth and with the approval of
1011 the commander-in-chief, dispose of an armory or air installation whenever it considers that the
1012 continued existence of such armory or air installation no longer suitably or efficiently serves the
1013 purposes of the armed forces of the commonwealth either due to obsolescence or changes in the
1014 defense requirements.

1015 SECTION 82. Section 127 of said chapter 33, as so appearing, is hereby amended by
1016 striking out, in lines 4 and 5, and in lines 11 and 12, the words “governor and council” and
1017 inserting in place thereof, in each instance, the following words:- commander-in-chief.

1018 SECTION 83. Section 130 of said chapter 33, as so appearing is hereby amended by
1019 striking out, in line 5, the word “He” and inserting in place thereof the following words:-The
1020 commander-in-chief.

1021 SECTION 84. Section 131 of said chapter 33, as so appearing, is hereby amended by
1022 striking out, in line 3 the words “fifty dollars” and inserting in place thereof the following
1023 figure:- \$500.

1024 SECTION 85. Section 133 of said chapter 33, as so appearing, is hereby amended by
1025 striking out, in line 3, the words “not less than twenty nor more than five-hundred dollars” and
1026 inserting in place thereof the following words:- not less than \$200 and not more than \$500.

1027 SECTION 86. Section 135 of said chapter 33, as so appearing, is hereby amended by
1028 striking out, in line 13, the words “ of fifteen dollars per day” and inserting in place thereof the
1029 following words:- determined by the human resources division.

1030 SECTION 87. Said chapter 33 is hereby further amended by striking out sections 137 and
1031 138, as so appearing, and inserting in place thereof the following 3 sections:-

1032 Section 137. There shall be a Massachusetts national guard education assistance
1033 program. The program shall be administered by the military division which may issue a
1034 certificate of exemption from the matriculation fee and tuition to any member of the
1035 Massachusetts army or air national guard who is enrolled at any state institution in a program the
1036 cost of which is borne by the commonwealth and who is qualified as provided in this section.
1037 This certificate shall remain in effect for 1 full academic year and shall be renewed after the
1038 student has completed a full academic year of work equal to 30 semester hours, in accordance
1039 with regulations prescribed by the military division. A certificate may therefore be in effect for
1040 more than 1 year.

1041 To receive benefits from the program, the member shall be a member in good standing of
1042 the active Massachusetts army or air national guard at the beginning of each semester that
1043 benefits are payable and shall remain a member in good standing of the active Massachusetts
1044 army or air national guard throughout the entire semester for which benefits are payable.

1045 Assistance shall continue for the benefit of the member only during such time as the
1046 member remains a student in good standing at the institution in which the member is enrolled;
1047 provided, however, that no student shall receive the benefits for more than 130 semester hours.

1048 Enrollment of a member in a course at any such institution shall be dependent on the
1049 availability of seats. For the purposes of this section, “availability of seats” shall mean vacancies
1050 that exist in a course after the enrollment of all tuition-paying students and all students who are
1051 enrolled under any scholarship or tuition waiver provisions.

1052 Section 138. (a) As used in this section the following words shall have the following
1053 meanings unless the context clearly requires otherwise:

1054 “Chief”, the chief of the Joint Base Cape Cod fire department.

1055 “Department”, the Joint Base Cape Cod fire department.

1056 “Joint Base Cape Cod”, approximately 22,000 acres of land owned by the commonwealth
1057 in Barnstable county established under chapter 196 of the acts of 1935 and used primarily for
1058 military purposes.

1059 (b) There shall be within the military division a Joint Base Cape Cod fire department. The
1060 department shall provide air crash crew and fire protection services on the Joint Base Cape Cod.
1061 The department shall be under the supervision and control of the chief of the Joint Base Cape
1062 Cod fire department.

1063 The chief shall be appointed by the adjutant general and may be removed by the adjutant
1064 general for cause after a hearing. The chief shall have charge of extinguishing fires on the Joint
1065 Base Cape Cod and the protection of life and property in the event of fire, aircraft mishap or

1066 explosion. The chief shall enforce all applicable state and federal fire laws and codes. The chief
1067 shall purchase, subject to the approval of the adjutant general or the adjutant general's designee,
1068 and maintain all apparatus used by the fire department and shall make other necessary
1069 expenditures subject to such further limitations as the adjutant general or the adjutant general's
1070 designee may prescribe.

1071 The chief shall enter into mutual aid agreements with surrounding cities and towns as
1072 necessary. The chief shall have and exercise all the powers and discharge all the duties conferred
1073 or imposed by statute upon engineers in towns, except as otherwise provided by chapter 48. The
1074 chief shall appoint a deputy chief and such officers and firefighters as the chief considers
1075 necessary and may remove the deputy chief, officers and firefighters for cause after a hearing,
1076 subject to any applicable collective bargaining agreement. The chief, deputy chief, officers and
1077 firefighters shall be civilian employees of the military division and shall not be subject to
1078 General Laws establishing a civil service system. New uniformed members of the department
1079 shall be subject to sections 61A and 61B of chapter 31.

1080 Except as otherwise provided in this section, the chief shall administer the department.
1081 The chief shall make rules and regulations for its operation, shall report annually to the adjutant
1082 general or the adjutant general's designee on the condition of the department and at such other
1083 times as the adjutant general or the adjutant general's designee shall request.

1084 Section 139. Subject to conditions and limitations as promulgated in regulations by the
1085 commander-in-chief, the national guard may use all appropriate means necessary to protect
1086 assets vital to national security classified as such according to rules, regulations or instructions

1087 promulgated by the United States Department of Defense or the military departments of the
1088 United States Department of Defense or as otherwise ordered by the commander-in-chief.

1089 SECTION 88. Section 7E of chapter 90 of the General Laws, as appearing in the 2012
1090 Official Edition, is hereby amended by inserting after the word “ambulances”, in line 2, the
1091 following words:- , vehicles specified in subsection (b) of section 50 of chapter 33.

1092 SECTION 89. Section 52A of chapter 149 of the General Laws is hereby repealed.

1093 SECTION 90. Chapter 222 of the General Laws is hereby amended by striking out
1094 section 11, as appearing in the 2012 Official Edition, and inserting in place thereof the following
1095 section:-

1096 Section 11. Persons serving in or with the armed forces of the commonwealth or the
1097 United States or their dependents, wherever located, may acknowledge any instrument in the
1098 manner and form required by law, before any commissioned officer in the active service of the
1099 armed forces of the commonwealth or the United States with the rank of second lieutenant or
1100 higher in the army, air force or marine corps or ensign or higher in the navy or United States
1101 coast guard. Any such instrument shall contain a statement that the person executing the
1102 instrument is serving in or with the armed forces of the commonwealth or the United States or is
1103 a dependent of a person serving in or with the armed forces of the commonwealth or the United
1104 States. No such instrument shall be rendered invalid by the failure to state in the instrument the
1105 place of execution or acknowledgment.

1106 No authentication of the officer’s certificate of acknowledgment shall be required.

1107 Instruments so acknowledged outside of the commonwealth, if otherwise in accordance
1108 with the law, shall be received and may be used in evidence or for any other purpose in the same
1109 manner as if taken before a commissioner of the commonwealth appointed to take depositions in
1110 other states.

1111 SECTION 91. Section 4 of chapter 260 of the General Laws, as so appearing , is hereby
1112 amended by striking out, in line 29, the word “soldier” and inserting in place thereof the
1113 following words:- enlisted person.

1114 SECTION 92. This act shall not affect the incumbents serving in the positions of assistant
1115 adjutant general who is designated executive officer, assistant adjutant general, assistant adjutant
1116 general for air, state quartermaster, state surgeon, state judge advocate and deputy state judge
1117 advocate on the effective date of this act. Each incumbent shall continue to serve in accordance
1118 with subsection (a) of section 15 of chapter 33 of the General Laws in effect at the time of the
1119 incumbent’s appointment to the state staff; provided, however, that the incumbent shall be
1120 subject to dismissal for cause in accordance with section 29 of said chapter 33 or by a legally
1121 convened court-martial in accordance with the military justice provisions of said chapter 33. The
1122 incumbent deputy state judge advocate shall, in the event of a vacancy in the office of state judge
1123 advocate, assume the responsibilities of the state judge advocate.

1124 SECTION 93. Each servicemember who performed honorable service in support of the
1125 2013 Boston Marathon response from April 15, 2013 to April 22, 2013, inclusive, as a member
1126 of the armed forces of the commonwealth, the United States, any other state or territory of the
1127 United States or any other country shall be awarded a medal according to rules and regulations
1128 promulgated by the adjutant general.