

Chapter 112

(House Bill 401)

AN ACT concerning

Military Department – Powers of the Adjutant General – Summary Courts–Martial

FOR the purpose of authorizing the Adjutant General to adopt certain rules and regulations; requiring certain rules and regulations to conform to a certain code and certain rules, regulations, and statutes; providing that when certain rules and regulations have been adopted and published by the Adjutant General, they shall have the force and effect of law and constitute a lawful order; providing that adoption and publication of rules and regulations by the Adjutant General are exempt from the requirements of the Administrative Procedure Act; altering the procedures for and penalties that may be imposed by summary courts–martial for the organized militia; and generally relating to powers of the Adjutant General and summary courts–martial.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 13–302 and 13–812
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article – Public Safety
Section 13–808
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Public Safety
Section 13–808 and 13–808.1
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–102
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Safety

13–302.

- (a) (1) The Adjutant General may appoint:
- (i) a chief of State operations;
 - (ii) an executive officer;
 - (iii) an administrative officer;
 - (iv) the directors of military installations, procurement, military support to civil authorities, State personnel, finance, and veterans affairs;
 - (v) the site managers for military reservations; and
 - (vi) a grants administrator.
- (2) The executive officer and directors appointed under paragraph (1) of this subsection serve at the pleasure of the Adjutant General.
- (b) (1) The Adjutant General shall keep all records required to be kept and filed with the Adjutant General's office.
- (2) On or before each October 15, the Adjutant General shall submit to the Governor a detailed statement of all the receipts and expenditures for military purposes during the year ending the previous September 30.
- (c) (1) On request, the Adjutant General or the Adjutant General's designee shall assist the spouse of a member of the military who resides in the State or is transferred to the State in finding employment in the State.
- (2) The assistance provided under paragraph (1) of this subsection may include providing:
- (i) the informational form developed by the State Department of Education under § 6–201.1 of the Education Article;
 - (ii) information relating to health occupations in the State that permit reciprocal licensure; and

(iii) information relating to business occupations in the State that permit reciprocal licensure.

(d) (1) The Adjutant General is responsible for:

(i) each armory that the State owns; and

(ii) each building or other property purchased, occupied, or leased by or on behalf of the State military forces.

(2) If the Adjutant General rejects an application to use an armory for nonmilitary purposes, the application is subject to review and approval by the Board of Public Works, the Adjutant General, and the commanding officer of the unit occupying that armory.

(3) The Adjutant General may adopt regulations to enforce this subsection.

(e) The Adjutant General is the custodian of battle flags and war records and is responsible for their proper care and preservation.

(f) The Adjutant General may employ employees as required.

(g) The Adjutant General shall carry out the Governor's policies concerning matters specified in this title and Title 14, Subtitles 1, 2, and 4 of this article.

(h) The seal of the Adjutant General's office shall be delivered by the Adjutant General to the Adjutant General's successor.

(I) (1) THE ADJUTANT GENERAL MAY ADOPT RULES AND REGULATIONS TO GOVERN, DISCIPLINE, AND ESTABLISH CRITERIA FOR THE PERFORMANCE OF DUTIES OF THE ORGANIZED MILITIA OF THE STATE, AS DEFINED IN § 13-203 OF THIS TITLE.

(2) THE RULES AND REGULATIONS SHALL, TO THE EXTENT PRACTICABLE, CONFORM TO THE UNIFORM CODE OF MILITARY JUSTICE (UCMJ) AND TO THE RULES, REGULATIONS, AND STATUTES OF THE DEPARTMENT OF DEFENSE, THE ARMY, THE AIR FORCE, AND THE NATIONAL GUARD BUREAU OF THE UNITED STATES.

(3) WHEN THE RULES AND REGULATIONS HAVE BEEN ADOPTED AND PUBLISHED BY THE ADJUTANT GENERAL, THEY SHALL HAVE THE FORCE AND EFFECT OF LAW AND CONSTITUTE A LAWFUL ORDER.

(4) ADOPTION AND PUBLICATION OF RULES AND REGULATIONS UNDER PARAGRAPH (3) OF THIS SUBSECTION ARE EXEMPT FROM THE REQUIREMENTS OF TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

[13–808.

(a) (1) The commanding officer of a garrison, fort, post or other place, regiment or corps, detached battalion, company, or other detachment may appoint for that command or place a summary court–martial.

(2) A summary court–martial shall consist of one officer.

(b) A summary court officer may:

(1) try an enlisted individual of the summary court–martial’s place or command for a breach of discipline or violation of law governing the place or command; and

(2) administer an oath.

(c) (1) The proceedings of a summary court–martial shall be informal.

(2) The minutes of a summary court–martial shall be the same as prescribed for the minutes for a summary court of the United States Army or Air Force.]

13–808.

(A) ENLISTED SOLDIERS AND NONCOMMISSIONED OFFICERS OF THE ORGANIZED MILITIA MAY BE SUBJECTED TO SUMMARY COURT–MARTIAL IN ACCORDANCE WITH THE PROCEDURES AND PENALTIES ADOPTED BY THE ADJUTANT GENERAL UNDER § 13–302 OF THIS TITLE.

(B) CONVICTION BY A SUMMARY COURT–MARTIAL DOES NOT CONSTITUTE A CONVICTION FOR THE PURPOSE OF ANY DISQUALIFICATION OR DISABILITY IMPOSED BY LAW BECAUSE OF CONVICTION OF A CRIME.

13–808.1.

ALL MEMBERS OF THE ORGANIZED MILITIA MAY BE SUBJECTED TO NONJUDICIAL PUNISHMENT IN ACCORDANCE WITH THE PROCEDURES AND PENALTIES ADOPTED BY THE ADJUTANT GENERAL UNDER § 13–302 OF THIS TITLE.

13-812.

(a) A general court-martial may impose one or more of the following penalties:

- (1) [except as provided in subsection (d) of this section,] a fine not exceeding \$200;
- (2) forfeiture of pay and allowances;
- (3) reprimand;
- (4) dismissal or dishonorable discharge from the service;
- (5) reduction of noncommissioned officers to the ranks; or
- (6) confinement, in lieu of a fine, not to exceed 1 day for each dollar of fine authorized.

(b) (1) Except as provided in paragraph (2) of this subsection, a special court-martial may impose the penalties listed in subsection (a) of this section.

- (2) A special court-martial may not impose a fine exceeding \$100.

[(c) A summary court-martial may impose the following penalties:

- (1) a fine not exceeding \$25 for a single offense;
- (2) reduction of noncommissioned officer to the ranks;
- (3) forfeiture of pay and allowances; or
- (4) confinement, in lieu of a fine, not to exceed 1 day for each dollar of fine authorized.]

(C) A SUMMARY COURT-MARTIAL MAY IMPOSE A SENTENCE THAT INCLUDES:

(1) A FINE OF NOT MORE THAN THE MEMBER'S PAY AND ALLOWANCES FOR FOUR UNIT TRAINING ASSEMBLIES;

(2) A FORFEITURE OF UP TO TWO-THIRDS OF THE MEMBER'S PAY AND ALLOWANCES FOR UP TO FOUR UNIT TRAINING ASSEMBLIES;

(3) REDUCTION IN RANK IN THE FOLLOWING MANNER:

(I) FOR ENLISTED PERSONNEL IN THE GRADE OF E5 AND ABOVE, TO THE NEXT INFERIOR PAY GRADE; OR

(II) FOR ENLISTED PERSONNEL IN THE GRADE OF E4 AND BELOW, TO THE LOWEST ENLISTED GRADE; OR

(4) FOR MEMBERS IN THE RANK OF E4 AND BELOW ONLY, CONFINEMENT FOR A PERIOD NOT TO EXCEED 30 DAYS.

(d) [An enlisted individual convicted of an offense listed in § 13–803 of this subtitle is subject to a fine not exceeding \$100.

(e)] A sentence of dismissal from the service or dishonorable discharge imposed by a court–martial may not be executed until approved by the Governor.

Article – State Government

10–102.

(a) Except as otherwise expressly provided by law, this subtitle applies to:

(1) each unit in the Executive Branch of the State government; and

(2) each unit that:

(i) is created by public general law; and

(ii) operates in at least 2 counties.

(b) This subtitle does not apply to:

(1) a unit in the Legislative Branch of the State government;

(2) a unit in the Judicial Branch of the State government;

(3) the Injured Workers' Insurance Fund;

(4) a board of license commissioners; [or]

(5) the Rural Maryland Council; **OR**

(6) THE MILITARY DEPARTMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.