

ORIGINAL HOUSE  
BILL NO. 0117

ENROLLED ACT NO. 16, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2003 GENERAL SESSION

AN ACT relating to the Wyoming national guard; defining and clarifying terms; modifying assistant adjutants general and deputy military administrator positions and qualifications as specified; clarifying provisions pertaining to national guard officers, officer discharge and officer promotion; prescribing national guard enlistment oath and discharge procedures; clarifying guard member worker's compensation coverage; specifying state service applicable to academic disruption protection; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 19-7-101(a)(v), by creating new paragraphs (viii) through (xi) and by renumbering (viii) as (xii), 19-7-104(a) and (b), 19-9-102(a)(ii) and (b), 19-9-210(b), 19-9-301(b), (c), (e) and (f), 19-9-302(a) and (b) and by creating new subsections (d) through (f), 19-9-403(b), 19-10-107 and 19-11-120(a) are amended to read:

**19-7-101. Definitions.**

(a) As used in this act:

(v) "Active state service" means service on behalf of the state wherever called upon in aid of civil authorities, under martial law, at encampments ordered by state authority or upon any other duty requiring the entire time of the organization or person, including state active duty and duty under title 32, United States Code, except when called or ordered into the federal service of the United States under title 10, United States Code;

(viii) "State active duty" means service on behalf of the state under the command of the governor

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excluding service while in status under title 32, United States Code, or while in federal service under title 10 of the United States Code;

(ix) "Enlisted member" means a member at military pay grades E-1 through E-9, as defined by federal rule and regulation;

(x) "Membership" means an officer's or enlisted member's status when officially serving in the Wyoming national guard as a military member commencing with the date of initial appointment or enlistment, as applicable, extending through the date of discharge, and is not restricted or limited by service in any specified duty position;

(xi) "Discharge" or "separate" means to separate a member from the organization;

~~(viii)~~(xii) "This act" means title 19.

**19-7-104. Assistant adjutants general; deputy military administrator and fiscal officer; emergency management coordinator.**

(a) The adjutant general shall appoint an assistant adjutant general for the army national guard and an assistant adjutant general for the air national guard. Each assistant adjutant general shall serve in their respective duty positions at the pleasure of the adjutant general and may be removed from the position by the adjutant general as provided under W.S. 9-1-202(b)(i). Each assistant adjutant general shall hold the rank of brigadier general and shall possess the qualifications set forth in W.S. 19-7-103(a)(i) through ~~(iv)~~(iii). No person shall continue to serve as an assistant adjutant general

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after failing to qualify before a federal recognition board for promotion to the grade of brigadier general.

(b) The adjutant general shall appoint a deputy military administrator for state military affairs, who shall serve in this position at the pleasure of the adjutant general and may be removed from this at-will position by the adjutant general under W.S. 9-1-202(b)(i). Under the direction of the adjutant general, the deputy military administrator shall prepare such reports, returns and requisitions as may be required and is accountable and responsible for all state military property and stores not in the possession of organizations. He shall receive and issue to all organizations on approved requisitions such property and equipment as may be required and authorized by appropriate state officials for the organizations. The annual compensation of the deputy military administrator shall be determined and fixed by the Wyoming personnel division. The duties of the deputy military administrator may be delegated to any officers of the Wyoming military department upon recommendation of the deputy military administrator and approval by the adjutant general.

**19-9-102. Organization of national guard; duty of governor.**

(a) The Wyoming national guard consists of the following officers and staff in addition to or in combination with such elements of the army and air forces of the national guard of the United States as are allocated to the state by the president, the secretary of defense or the secretary of army or air, and accepted by the state:

(ii) Two (2) assistant adjutants general appointed pursuant to W.S. ~~19-7-105(a)~~ 19-7-104(a);

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(b) The national guard shall be organized into separate ~~departments~~divisions for army and air with an officer not over the grade of brigadier general at the head of each ~~department~~division who is subordinate to the adjutant general, ~~who serves as~~ Each division head shall be an assistant adjutant general ~~and~~ who shall serve as the acting adjutant general, in order of rank, upon absence, incapacity or death of the adjutant general. The governor, by and with the advice of the adjutant general, shall make and publish such orders as necessary to conform the national guard of Wyoming in organization, armament and discipline to that prescribed for the regular army or air force of the United States, subject to ~~such~~ general exceptions ~~as~~ authorized by this act and by the laws of the United States. For this purpose, the governor may increase or decrease the number of officers, noncommissioned officers and personnel of any grade to the extent made necessary by changes authorized by department of defense orders or national guard regulations.

**19-9-210. State active duty without pay.**

(b) When serving on state active duty, without pay, members shall be deemed state employees for the purpose of being covered under the Wyoming Worker's Compensation Act and their state active ~~state service~~duty shall be considered an extrahazardous occupation under W.S. 27-14-108.

**19-9-301. National guard officers generally.**

(b) All officers appointed in the national guard of Wyoming except the adjutant general and assistant adjutants general shall hold their ~~appointments~~membership until they have reached ~~sixty-four (64)~~seventy (70) years of age unless retired or discharged prior to that time. ~~by reason~~

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~~of resignation, disability, withdrawal of federal recognition, transfer to armed forces reserves or for cause to be determined by a courts-martial or administrative board legally convened for that purpose~~ No officer possesses a property interest in any duty position. The adjutant general is the discharge authority for all officers except the adjutant general, for which the governor shall be that authority. Any officer may be discharged from the Wyoming national guard according to procedures established by orders and regulations prescribed or promulgated by the adjutant general or according to federal law and regulation. An officer discharged from the United States air force or army reserves or who has his federal recognition withdrawn shall also be discharged from the Wyoming national guard effective as of the date of discharge from the reserves or withdrawal of federal recognition.

(c) Initial appointments and promotions ~~will~~ shall be made from the best qualified officers available for service in a unit or organization. ~~Recommendations for selection in the grade of major or above will be approved by the adjutant general and the senior officer in a command position from the department in which the appointment or promotion is to be made~~ The adjutant general shall for federal promotions and as required by federal regulation, submit recommendations personally or through a federal recognition board appointed by the adjutant general. For state promotion of officers, the adjutant general shall be the promotion authority.

(e) The moral character, capacity and general fitness for the service of any national guard officer may be determined at any time by an administrative board as provided by applicable law and regulations. Commissions of officers of the national guard may be vacated upon

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resignation or absence without leave for three (3) months upon the recommendation of an administrative board or pursuant to sentence of a courts-martial. ~~Any officer permanently leaving the state shall resign his commission upon request of the adjutant general or may apply to be placed upon the inactive list. Officers rendered surplus by the disbandment of their organization shall be disposed of as provided by federal law and regulations. Upon their own application, officers may be placed on the inactive list as authorized by federal law or regulations.~~

(f) The compensation of all officers when on duty by order of the governor shall be the same as paid to officers of like grade in the regular armed forces of the United States including longevity pay and allowances for federal and national guard service.

**19-9-302. Enlistments; oath; term; reenlistments and extensions; discharge.**

(a) After the forming of an organization, recruits may be enlisted into the organization. They shall sign their names to an enlistment contract to be furnished by the adjutant general for that purpose and signing is legal enlistment. Every commissioned officer ~~is empowered to~~ and every noncommissioned officer at military pay grade E-9 as defined by federal rule and regulation, may administer the oath required on enlistment.

(b) Every enlisted member shall serve for a term of years prescribed by department of defense orders or national guard regulations unless he is properly discharged. ~~Upon expiration of the service of any enlisted man, the commanding officer of his organization shall prepare a discharge as provided for in department of defense orders or national guard regulations.~~

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(d) Upon expiration of the service of any enlisted member or upon his discharge under United States department of defense or national guard regulation, the commanding officer of his organization shall prepare a discharge certificate as provided by federal or national guard regulation.

(e) The adjutant general is the discharge authority for all enlisted members. An enlisted member may be discharged from the Wyoming national guard according to regulations adopted by the adjutant general or by federal law and regulation.

(f) An enlisted member discharged from the United States air force or army reserves shall be discharged from the Wyoming national guard effective as of the date of discharge from the reserves.

**19-9-403. Pay and allowances of officers and enlisted men in active state service and state active duty; worker's compensation coverage for national guard members; no pension denied by reason of service.**

(b) Members of the Wyoming national guard while in state active ~~state service~~ duty by order or voluntarily at the request of the governor shall be deemed state employees for purpose of being covered under the Wyoming Worker's Compensation Act and their state active ~~state service~~ duty shall be considered as an extrahazardous occupation under W.S. 27-14-108.

**19-10-107. Worker's compensation.**

In the event of disability or death resulting from an injury while in state active ~~service~~ duty under orders of

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the governor, members of the Wyoming state guard are entitled to the same benefits provided for employees under the provisions of the Wyoming Worker's Compensation Act. Benefits shall be paid out of the general fund of Wyoming upon certification by the state council of defense.

**19-11-120. Academic penalties prohibited.**

(a) No student member of any uniformed service of the United States shall have his education, including but not limited to colleges and universities, vocational or technical or trade schools or secondary educational institutions, unnecessarily disrupted because of his service in the uniformed services. No undue penalties shall be assessed because of his service in the uniformed services. No student shall forfeit, and shall be entitled to reimbursement for, any fees or education expenses if such student is ordered into active state service for a period of more than thirty (30) consecutive days or active federal service pursuant to a presidential call or mobilization.

**Section 2.** W.S. 19-7-101(a)(vi) and 19-9-301(d) and (j) are repealed.



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**Section 3.** This act is effective July 1, 2003.

(END

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk