

HOUSE BILL NO. HB0117

National guard.

Sponsored by: Representative(s) Illoway and Senator(s)
Hanes

A BILL

for

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

10

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

12

13 **Section 1.** W.S. 19-7-101(a)(v), by creating new
14 paragraphs (viii) through (xi) and by renumbering (viii) as
15 (xii), 19-7-104(a) and (b), 19-9-102(a)(ii) and (b),
16 19-9-210(b), 19-9-301(b), (c), (e) and (f), 19-9-302(a) and

1 (b) and by creating new subsections (d) through (f),
2 19-9-403(a) and (b), 19-10-107 and 19-11-120(a) are amended
3 to read:

4

5 **19-7-101. Definitions.**

6

7 (a) As used in this act:

8

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

17

18 (viii) "State active duty" means service on
19 behalf of the state under the command of the governor
20 excluding service while in status under title 32, United
21 States Code, or while in federal service under title 10 of
22 the United States Code;

23

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

4
5 (x) "Membership" means an officer's status when
6 officially serving in the Wyoming national guard as a
7 military member commencing with the date of initial
8 appointment extending through the date of discharge, and is
9 not restricted or limited by service in any specified duty
10 position;

11
12 (xi) "Discharge" or "separate" means to separate
13 a member from the organization;

14
15 ~~(viii)~~ (xii) "This act" means title 19.

16
17 **19-7-104. Assistant adjutants general; deputy**
18 **military administrator and fiscal officer; emergency**
19 **management coordinator.**

20
21 (a) The adjutant general shall ~~appoint~~ select an
22 assistant adjutant general for the army national guard and
23 an assistant adjutant general for the air national guard.
24 Each assistant adjutant general shall serve in their

1 respective duty positions at the pleasure of the adjutant
2 general and may be removed from the at-will position by the
3 adjutant general as provided under W.S. 9-1-202(b)(i).

4 Each assistant adjutant general shall hold the rank of
5 brigadier general and shall possess the qualifications set
6 forth in W.S. 19-7-103(a)(i) through ~~(iv)~~ (iii). No person
7 shall continue to serve as an assistant adjutant general
8 after failing to qualify before a federal recognition board
9 for promotion to the grade of brigadier general.

10
11 (b) The adjutant general shall ~~appoint~~ select a
12 deputy military administrator for state military affairs,
13 who shall serve in this position at the pleasure of the
14 adjutant general and may be removed from this position by
15 the adjutant general under W.S. 9-1-202(b)(i). Under the
16 direction of the adjutant general, the deputy military
17 administrator shall prepare such reports, returns and
18 requisitions as may be required and is accountable and
19 responsible for all state military property and stores not
20 in the possession of organizations. He shall receive and
21 issue to all organizations on approved requisitions such
22 property and equipment as may be required and authorized by
23 appropriate state officials for the organizations. The
24 annual compensation of the deputy military administrator

1 shall be determined and fixed by the Wyoming personnel
2 division. The duties of the deputy military administrator
3 may be delegated to any officers of the Wyoming military
4 department upon recommendation of the deputy military
5 administrator and approval by the adjutant general.

6

7 **19-9-102. Organization of national guard; duty of**
8 **governor.**

9

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

16

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

20

21 (b) The national guard shall be organized into
22 separate ~~departments~~ divisions for army and air with an
23 officer not over the grade of brigadier general at the head
24 of each ~~department~~ division who is subordinate to the

1 adjutant general ~~., who serves as~~ Each division head shall
2 be an assistant adjutant general ~~and~~ who shall serve as the
3 acting adjutant general, in order of rank, upon absence,
4 incapacity or death of the adjutant general. The governor,
5 by and with the advice of the adjutant general, shall make
6 and publish such orders as necessary to conform the
7 national guard of Wyoming in organization, armament and
8 discipline to that prescribed for the regular army or air
9 force of the United States, subject to ~~such~~ general
10 exceptions ~~as~~ authorized by this act and by the laws of the
11 United States. For this purpose, the governor may increase
12 or decrease the number of officers, noncommissioned
13 officers and personnel of any grade to the extent made
14 necessary by changes authorized by department of defense
15 orders or national guard regulations.

16

17 **19-9-210. State active duty without pay.**

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19 (b) When serving on state active duty, without pay,
20 members shall be deemed state employees for the purpose of
21 being covered under the Wyoming Worker's Compensation Act
22 and their state active ~~state service~~ duty shall be
23 considered an extrahazardous occupation under W.S.
24 27-14-108.

1

2

19-9-301. National guard officers generally.

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4

(b) All officers appointed in the national guard of Wyoming except the adjutant general and assistant adjutants

5

general shall hold their ~~appointments~~ membership until they

6

have reached ~~sixty-four (64)~~ seventy (70) years of age

7

unless retired or discharged prior to that time. ~~by reason~~

8

~~of resignation, disability, withdrawal of federal~~

9

~~recognition, transfer to armed forces reserves or for cause~~

10

~~to be determined by a courts-martial or administrative~~

11

~~board legally convened for that purpose~~ No officer shall

12

acquire a property interest in any duty position. The

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adjutant general is the discharge authority for all

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officers except the adjutant general, for which the

15

governor shall be that authority. Any officer may be

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discharged from the Wyoming national guard according to

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regulations adopted by the adjutant general or according to

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federal law and regulation. An officer discharged from the

19

United States air force or army reserves or who has his

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federal recognition withdrawn shall also be discharged from

21

the Wyoming national guard effective as of the date of

22

discharge from the reserves or withdrawal of federal

23

recognition.

24

1

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

14

15 (e) The moral character, capacity and general fitness
16 for the service of any national guard officer may be
17 determined at any time by an administrative board as
18 provided by applicable law and regulations. Commissions of
19 officers of the national guard may be vacated upon
20 resignation or absence without leave for three (3) months
21 upon the recommendation of an administrative board or
22 pursuant to sentence of a courts-martial. ~~Any officer~~
23 ~~permanently leaving the state shall resign his commission~~
24 ~~upon request of the adjutant general or may apply to be~~

1 ~~placed upon the inactive list. Officers rendered surplus by~~
2 ~~the disbandment of their organization shall be disposed of~~
3 ~~as provided by federal law and regulations. Upon their own~~
4 ~~application, officers may be placed on the inactive list as~~
5 ~~authorized by federal law or regulations.~~

6
7 (f) The compensation of all officers when on duty by
8 order of the governor shall be the same as paid to officers
9 of like grade in the regular armed forces of the United
10 States including longevity pay and allowances for federal
11 and national guard service.

12
13 **19-9-302. Enlistments; oath; term; reenlistments and**
14 **extensions; discharge.**

15
16 (a) After the forming of an organization, recruits
17 may be enlisted into the organization. They shall sign
18 their names to an enlistment contract to be furnished by
19 the adjutant general for that purpose and signing is legal
20 enlistment. Every commissioned officer ~~is empowered to~~ and
21 every noncommissioned officer at military pay grade E-9 as
22 defined by federal rule and regulation, may administer the
23 oath required on enlistment.

24

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

8
9 (d) Upon expiration of the service of any enlisted
10 member or upon his discharge under United States department
11 of defense or national guard regulation, the commanding
12 officer of his organization shall prepare a discharge
13 certificate as provided by federal or national guard
14 regulation.

15
16 (e) The adjutant general is the discharge authority
17 for all enlisted members. An enlisted member may be
18 discharged from the Wyoming national guard according to
19 regulations adopted by the adjutant general or by federal
20 law and regulation.

21
22 (f) An enlisted member discharged from the United
23 States air force or army reserves shall be discharged from

1 the Wyoming national guard effective as of the date of
2 discharge from the reserves.

3
4 **19-9-403. Pay and allowances of officers and enlisted**
5 **men in active state service and state active duty; worker's**
6 **compensation coverage for national guard members; no**
7 **pension denied by reason of service.**

8
9 (a) Officers and enlisted men while in active state
10 service and state active duty shall receive the same pay
11 and allowances as are paid for the same rank and grade for
12 service in the armed forces of the United States.

13
14 (b) Members of the Wyoming national guard while in
15 state active ~~state service~~ duty by order or voluntarily at
16 the request of the governor shall be deemed state employees
17 for purpose of being covered under the Wyoming Worker's
18 Compensation Act and their state active ~~state service~~ duty
19 shall be considered as an extrahazardous occupation under
20 W.S. 27-14-108.

21
22 **19-10-107. Worker's compensation.**

1 In the event of disability or death resulting from an
2 injury while in state active ~~service~~-duty under orders of
3 the governor, members of the Wyoming state guard are
4 entitled to the same benefits provided for employees under
5 the provisions of the Wyoming Worker's Compensation Act.
6 Benefits shall be paid out of the general fund of Wyoming
7 upon certification by the state council of defense.

8

9 **19-11-120. Academic penalties prohibited.**

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

24

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

3

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

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(END)