

**SENATE BILL NO. 111**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

**BY SENATOR HUGHES**

**Introduced: 4/11/17**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Alaska State Defense Force."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 26.05.010(c) is amended to read:

4 (c) The **governor** [ADJUTANT GENERAL] may, by regulation, prescribe the  
5 maximum age for eligibility in the militia **and any physical qualifications to meet**  
6 **specific mission requirements for the Alaska State Defense Force.**

7 \* **Sec. 2.** AS 26.05.030(d) is amended to read:

8 (d) The Alaska State Defense Force consists of units authorized by the  
9 governor and manned by volunteer personnel qualifying under state law and  
10 regulation, **with priority given to personnel who have served in the military, a**  
11 **military auxiliary, a state defense force, the United States Coast Guard, a**  
12 **volunteer auxiliary, or a state or municipal law enforcement agency. To be**  
13 **eligible to volunteer, former military personnel shall have an honorable**  
14 **discharge or general discharge under honorable conditions. A person with a**  
15 **prior felony conviction, any prior criminal conviction that prevents ownership of**

1 arms, or a prior conviction for a felony or misdemeanor for a crime involving  
 2 moral turpitude is not eligible to volunteer under this section, unless, in the case  
 3 of extreme emergency, the governor waives those prohibitions. All Alaska State  
 4 Defense Force personnel shall be

5 (1) appointed, commissioned, or warranted, and assigned by the  
 6 governor, or the adjutant general as the governor's designee, for a period of six years  
 7 after

8 (A) submitting an application, a current resume, the  
 9 applicant's fingerprints made by a certified fingerprint technician, a  
 10 national criminal history record check, and, under penalty of perjury, a  
 11 sworn statement disclosing any prescription drug use;

12 (B) review of the application submitted under (A) of this  
 13 paragraph by a board appointed by the commander of the Alaska State  
 14 Defense Force and made up of senior commissioned officers and at least  
 15 one senior, noncommissioned officer; an applicant who is denied under  
 16 this subsection may file an appeal in writing to the governor, who may  
 17 grant a waiver;

18 (C) review of any prescription drug use by the Alaska State  
 19 Defense Force Surgeon General to ensure there is no bar to armed duty;  
 20 the surgeon general may require an applicant to provide a written  
 21 statement from a medical care provider regarding the use and effect of the  
 22 prescription drugs;

23 (2) subject to serve on state active duty at the call and by order of the  
 24 governor.

25 \* **Sec. 3.** AS 26.05.100 is amended to read:

26 **Sec. 26.05.100. Alaska State Defense Force.** An armed [A] state militia,  
 27 known as the Alaska State Defense Force, may be organized under the Office of the  
 28 Governor and maintained through voluntary enlistments out of the unorganized  
 29 militia under regulations as to discipline and training that may be prescribed by the  
 30 governor. [DURING THE TIME THAT THE ALASKA NATIONAL GUARD OR  
 31 THE ALASKA NAVAL MILITIA, OR ANY PART OF EITHER OF THEM, IS

1 NOT AVAILABLE TO THE STATE BY REASON OF ACTIVE FEDERAL  
 2 SERVICE, OR THE NATIONAL GUARD OR NAVAL MILITIA REQUIRES  
 3 AUGMENTATION TO PERFORM ITS STATE MISSION, THE GOVERNOR  
 4 MAY ACTIVATE THE ALASKA STATE DEFENSE FORCE.]

5 \* **Sec. 4.** AS 26.05.100 is amended by adding new subsections to read:

6 (b) During the time that the Alaska National Guard or the Alaska Naval  
 7 Militia, or any part of either of them, is not available to the state by reason of active  
 8 federal service, or the National Guard or Naval Militia requires augmentation to  
 9 perform its state mission, the governor may activate the Alaska State Defense Force.

10 (c) The Alaska State Defense Force shall be maintained as an organized,  
 11 armed, trained military force capable of timely and effective response to state  
 12 emergencies, or, on other occasions the governor considers appropriate, to provide  
 13 armed military assistance to civil and military authorities in the preservation of life,  
 14 property, and public safety.

15 (d) The primary mission of the Alaska State Defense Force is to serve as a  
 16 constabulary with state police powers. An Alaska State Defense Force member shall  
 17 act as a peace officer and may use personal arms when called to state active duty  
 18 under AS 26.05.070. The Alaska State Defense Force may have additional missions,  
 19 as authorized by the governor. In this subsection, "constabulary" means an armed  
 20 police force organized on military lines, but distinct from the regular Army.

21 (e) The Alaska State Defense Force may have units of varying strength  
 22 established in the state. Units operate at reduced strength until the governor authorizes  
 23 full strength by ordering the unorganized militia into active state service under  
 24 AS 26.05.070 or recruiting produces the manpower required for full strength.

25 (f) The Alaska State Defense Force shall issue a badge to each member who  
 26 qualifies as a state military police constable. A member may wear a badge issued  
 27 under this subsection only when the member is under orders and in uniform. A  
 28 member shall return the badge to the Alaska State Defense Force upon discharge. A  
 29 badge issued under this subsection must be metal or woven, contain the state seal in  
 30 the center of the badge, and contain the words "Alaska State Police Auxiliary" and  
 31 "Alaska State Defense Force" on the face of the badge. An Alaska State Defense Force

1 uniform may include the state flag on the right shoulder, but may not include other  
 2 federal military badges or insignia. Alaska State Defense Force insignia, devices, and  
 3 awards may be worn on uniforms of the United States Army as permitted under  
 4 federal law.

5 (g) The Alaska State Defense Force shall have a state-only chain of command  
 6 structure with the governor as the commander in chief. The Alaska State Defense  
 7 Force shall use the same rank structure as the Alaska Army National Guard. All rank  
 8 appointments shall be made based on the needs of the Alaska State Defense Force, and  
 9 the member's education, state knowledge, leadership ability, business experience, and  
 10 prior experience in the military, a state defense force, the United States Coast Guard,  
 11 the United States Coast Guard Auxiliary, the Civil Air Patrol, or state or municipal  
 12 law enforcement. The governor shall appoint each officer to the Alaska State Defense  
 13 Force at the recommendation of the commanding officer of the Alaska State Defense  
 14 Force. Appointment as an officer may not require any educational qualifications.

15 (h) A member of the Alaska State Defense Force

16 (1) shall, at no cost to the state, provide the member's personal arms,  
 17 uniforms, and field gear suitable for militia duty and training compatible with current  
 18 Alaska State Defense Force standards for arms and ammunition; the state has no  
 19 ownership interest in items provided by a member under this paragraph;

20 (2) shall attend monthly training drills without pay;

21 (3) shall be ready to respond to activation under AS 26.05.070 within  
 22 24 hours of notification;

23 (4) shall be subject to the discipline and training prescribed by state  
 24 law and the conduct manual described in (l) of this section;

25 (5) shall be subject to lawful orders of Alaska State Defense Force  
 26 officers;

27 (6) may not be subject to federal military law or discipline.

28 (i) The state shall recognize the arms of an Alaska State Defense Force  
 29 member as individually owned, private arms and may not abridge, diminish, or  
 30 interfere with those rights with respect to use of those arms for duty in the Alaska  
 31 State Defense Force.

1 (j) Qualified units or members of the Alaska State Defense Force shall be  
2 eligible for

3 (1) state decorations or awards available to the units or members of the  
4 Alaska National Guard;

5 (2) any decoration or award given by the State Guard Association of  
6 the United States to state defense forces; and

7 (3) awards authorized by the commanding officer.

8 (k) The Alaska State Defense Force may request or receive federal and state  
9 grants or assistance for materials and training. To the extent allowed under state law, a  
10 state agency and the legislature may give priority to the Alaska State Defense Force  
11 over a nongovernment agency for funding requested for administration, training, and  
12 necessary mission-specific material. The Alaska State Defense Force may accept  
13 assistance from private sources for equipment, training, and transportation.

14 (l) The governor shall appoint the commanding officer of the Alaska State  
15 Defense Force. The commanding officer shall, while holding office, have the grade of  
16 brigadier general and the title of Commanding Officer Alaska State Defense Force.  
17 The commanding officer is responsible to the governor for the day-to-day  
18 administration, operation, discipline, and organization of the Alaska State Defense  
19 Force. The commanding officer shall

20 (1) create a conduct manual for members; the conduct manual must  
21 apply to a member regardless of whether the member has been called to state active  
22 duty under AS 26.05.070; the conduct manual must provide

23 (A) for the discipline of any minor military offense, which  
24 must be limited to nonmonetary, administrative punishment;

25 (B) that the standard for a conviction for insubordination shall  
26 be evidence beyond a reasonable doubt; in this subparagraph,  
27 "insubordination" means the wilful violation of a lawful order given by a  
28 lawful authority;

29 (C) that when a member is convicted by a civil authority for an  
30 act or omission that violates the conduct manual adopted by the commanding  
31 officer and local criminal law, foreign or domestic, the commanding officer

1 may authorize additional discipline upon notice of conviction;

2 (D) for due process and recognition of the individual rights and  
3 unique voluntary status of members of the Alaska State Defense Force;

4 (2) approve, by written order, all manuals and policies regarding  
5 Alaska State Defense Force administration, discipline, operation, organization, and  
6 training; all manuals and policies under this subsection must be in writing, including  
7 policies for

8 (A) the uniformity of arms and equipment, including caliber  
9 and types of arms, to enable the use of federal military small arms ammunition  
10 in the event of a military emergency;

11 (B) training requirements for the use of arms for militia duty;

12 (C) personal equipment requirements for state active duty  
13 under AS 26.05.070 and additional missions;

14 (3) authorize the uniforms, insignias, devices, and badges to be worn  
15 on Alaska State Defense Force uniforms;

16 (4) establish, by written order, units of the Alaska State Defense Force  
17 and specify, in writing, when a unit is deactivated;

18 (5) approve a unique insignia and flag for each unit of the Alaska State  
19 Defense Force;

20 (6) promote morale and unit cohesion, authorize Alaska State Defense  
21 Force awards and decorations to denote bravery, exceptional service, length of service,  
22 good conduct, achievement, leadership, attendance, contributions to the Alaska State  
23 Defense Force by members and nonmembers, and marksmanship;

24 (7) prepare, in consultation with the commissioner of military and  
25 veterans' affairs and the commissioner of public safety, and submit to the governor, an  
26 annual plan regarding the governor's ordering of the organized and unorganized militia  
27 into active state service under AS 26.05.070 and 26.05.110; the annual plan shall  
28 include a

29 (A) plan for ordering the unorganized militia into active state  
30 service;

31 (B) description of how the unorganized militia will be

1 organized into units of the Alaska State Defense Force;

2 (C) description of the training, arms, ammunition, personal  
3 gear, quarters, transport, logistics, and other assistance that the department  
4 would provide to meet the requirements of missions under AS 26.05.070 and  
5 additional missions ordered by the governor;

6 (8) report monthly in writing to the governor and the commissioner of  
7 military and veterans' affairs the total number of active members available to be called  
8 to state active duty under AS 26.05.070;

9 (9) keep records of Alaska State Defense Force administrative policies,  
10 procedures, and state service, and each member's service;

11 (10) report annually to the governor and the legislature the time and  
12 money members of the Alaska State Defense Force have contributed to the benefit of  
13 the state and account for any grants or contributions made to the Alaska State Defense  
14 Force in the previous calendar year; the commanding officer shall deliver the report to  
15 the senate secretary and the chief clerk of the house of representatives and shall notify  
16 the legislature that the report is available.

17 \* **Sec. 5.** AS 26.05.110 is amended to read:

18 **Sec. 26.05.110. Governor may order unorganized militia into active**  
19 **service.** In the event of imminent invasion by a foreign power and for the same  
20 reasons set **out** [FORTH] in AS 26.05.070, if the governor has ordered into active  
21 service all of the available organized militia or if the **Alaska National Guard or**  
22 **Alaska Naval Militia** [ORGANIZED MILITIA] is in active federal service, the  
23 governor may order the unorganized militia or any portion of it considered necessary  
24 into active service **in the Alaska State Defense Force**, and have **unorganized militia**  
25 **members** [THEM] perform military duty for the state subject to this chapter, as the  
26 circumstances require. **Unorganized militia members ordered into active service in**  
27 **the Alaska State Defense Force under this section are not subject to the**  
28 **requirements for Alaska State Defense Force personnel under AS 26.05.030(d).**

29 \* **Sec. 6.** AS 26.05.160 is amended by adding new subsections to read:

30 (f) The adjutant general shall support the use by the Alaska State Defense  
31 Force of state and federal military and law enforcement firearms training facilities

1 open to use by the Alaska state troopers and the Alaska Army National Guard. The  
2 adjutant general shall assist the Alaska State Defense Force in acquiring any federal  
3 permission necessary for members of the Alaska State Defense Force to transport,  
4 possess, and use personal arms and ammunition owned by the member for training at a  
5 federal military facility.

6 (g) The adjutant general shall support the creation of an Alaska State Defense  
7 Force identification card that is acceptable to federal authorities for each Alaska State  
8 Defense Force member. The identification card under this subsection shall be used by  
9 a member for the purpose of accessing facilities under federal military jurisdiction  
10 when the member is called to state active duty training or Alaska State Defense Force  
11 business. An Alaska State Defense Force member shall return an identification card to  
12 the Alaska State Defense Force upon discharge.

13 (h) The adjutant general shall

14 (1) provide for the use by the Alaska State Defense Force of armories  
15 available under AS 26.05.290;

16 (2) assist the Alaska State Defense Force in securing suitable facilities  
17 when there are no armories available under AS 26.05.290;

18 (3) support the use by the Alaska State Defense Force of available state  
19 agency vehicles for authorized training and to support state active duty mission  
20 requirements during an emergency;

21 (4) support the participation of the Alaska State Defense Force in  
22 applicable state and federal military, civil defense, and disaster response exercises;  
23 participation of Alaska State Defense Force members under this paragraph is paid  
24 state active duty;

25 (5) provide transportation support for Alaska State Defense Force units  
26 and personnel, including transportation by the Alaska National Guard, during disaster  
27 response, military emergency, and state or federal training exercises;

28 (6) assist the Alaska State Defense Force commander in requesting  
29 support from the Department of Public Safety to request air and communications  
30 support from the Civil Air Patrol during an emergency or state or federal training  
31 exercise in which the Department of Public Safety participates; and

1 (7) support annual encampment and training for Alaska State Defense  
2 Force units under AS 26.05.280 and 26.05.290.

3 \* **Sec. 7.** AS 26.05.170 is amended to read:

4 **Sec. 26.05.170. Governor's command and instructions exercised through**  
5 **the adjutant general.** The governor's command **of the Alaska National Guard and**  
6 **the Alaska Naval Militia** is exercised through the adjutant general, who shall carry  
7 out the policies of the governor in military affairs. The adjutant general represents the  
8 governor and shall act in conformity with the governor's instructions. The adjutant  
9 general shall exercise control over the military department of the state.

10 \* **Sec. 8.** AS 26.05.260(i) is amended to read:

11 (i) When active state service is authorized by the governor or by the adjutant  
12 general as the governor's designee **under AS 26.05.070**, members of the Alaska State  
13 Defense Force are entitled to receive, for each day of active service under  
14 AS 26.05.070, pay and allowances as provided in this subsection. **During military**  
15 **court proceedings, a member of the Alaska State Defense Force who is either a**  
16 **member of a military court under AS 26.05.415 or the accused is entitled to**  
17 **receive pay and allowances as provided in this subsection.** Pay is equal to that  
18 provided under AS 39.27.011(a) - (f) and 39.27.020 for equivalent assignments of  
19 state officials or employees, including adjustments under AS 39.27.025, if applicable.  
20 Allowances shall be paid to the same extent, in the same manner, and under the same  
21 conditions as provided for state officials and employees under AS 39.20.110 -  
22 39.20.170. However, pay or allowances are not authorized for training or community  
23 service activities of members of the Alaska State Defense Force.

24 \* **Sec. 9.** AS 26.05.370 is amended to read:

25 **Sec. 26.05.370. Persons subject to military courts; jurisdiction.** The code of  
26 military justice applies to a member of the militia at all times, except when a member  
27 of the

28 **(1)** militia is

29 **(A)** [(1)] in active federal service under 10 U.S.C. (Armed  
30 Forces); or

31 **(B)** [(2)] outside the state and not in active duty status;

1                                   **(2) Alaska State Defense Force has not been called to state active**  
 2                                   **duty under AS 26.05.070.**

3       \* **Sec. 10.** AS 26.05.415 is amended to read:

4                                   **Sec. 26.05.415. Courts-martial classified. Subject to (b) of this section, the**  
 5                                   [THE] military courts for the militia of the state are

6                                   (1) a general court-martial, consisting of

7   (A) a military judge, not fewer than five members, and not  
 8   fewer than one alternate member; or

9   (B) only a military judge, if, before the court is assembled, the  
 10    accused, knowing the identity of the military judge and after consultation with  
 11    defense counsel, requests orally on the record or in writing a court composed  
 12    of only a military judge and the military judge approves;

13                                   (2) a special court-martial, consisting of

14   (A) a military judge, not fewer than three members, and not  
 15   fewer than one alternate member; or

16   (B) only a military judge, if one has been detailed to the court,  
 17    and the accused so requests under the conditions prescribed in (1)(B) of this  
 18    section; and

19                                   (3) a summary court-martial, consisting of one commissioned officer.

20       \* **Sec. 11.** AS 26.05.415 is amended by adding a new subsection to read:

21                                   (b) If the accused is a member of the Alaska State Defense Force, the  
 22                                   members and alternate members of the military court under (a) of this section must be  
 23                                   officers of the Alaska State Defense Force.