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**94**

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 94 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting civil liability for certain activ-  
7 ities of the Alaska National Guard."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 26.05 is amended by adding a new section to read:

10 Sec. 26.05.145. IMMUNITY FROM CIVIL LIABILITY. The state, an  
11 employee or representative of the state, and an individual member of  
12 the Alaska National Guard are not civilly liable for damages arising  
13 from Alaska National Guard activities of a member of the Alaska  
14 National Guard while acting as an employee of the government. In this  
15 section, "employee of the government" has the meaning given in  
16 28 U.S.C. 2671 (Federal Tort Claims Act).

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history and U.S. Code Service Afloat, Inc., Howard Harry, Inc. v. U.S. 1973, 353 F.Supp. 885, 70 Cust.Ct. —, A.R.D.

Trade, see section § 4103. Since appellant, the only plaintiff in the entire litigation, did not contend it has not had proper notice of call for hearing or that it received timely a copy of the judgment order of dismissal under Rule 23(b) of the Customs Court, and since the filing of the motion for rehearing was untimely according to this section, the trial court properly denied the rehearing and no appeal lies from such denial. A. W. Fenton Co. v. U.S., 1966, 53 CCPA 98.

Inter- varrant for where nly flawed acceptable l. U.S. v. 01 F.Supp. Vacation of a judgment of dismissal for failure to prosecute under U.S. Court of International Trade Rule 86 was denied for noncompliance with this section and Rule 60(b) when motion was made about five months from date of entry of order of dismissal without foreclosing the bringing of an independent equitable action under section 1585 of this title and Rule 60(b). Belwith: International, Ltd. v. U.S., 1981, 2 CIT 14.

2. Delivery of motion Mailing of a motion for rehearing or otherwise placing same in the course of delivery to its intended recipient does not constitute the making thereof until delivered to the official designated to receive same for the purpose intended, motion is not made within this contemplation of this section until filed with the clerk. Minkap of California, Inc. v. U.S., 1967, 55 CCPA 1.

3. Grant Upon plaintiff's motion for rehearing, the previous decision and judgment was vacated and set aside; however, plaintiff's request to adduce additional limited proof of its alleged status as a selected purchaser was denied. Magnesium Elektron, Inc. v. U.S., 1970, 65 Cust.Ct. 762, R.D. 11730.

—620, Title IV, § 402(29)(G), Nov. 8, 1984, 98 Stat.

III, § 301, led Pub.L. 1984, 98 ca.

U.S. Steel Corp. v. U.S., 1983, 578 F.Supp. 414, 6 C.I.T. 225, 240. Findings of fact and conclusions of law were made by the United States Customs Court pursuant to an order entered in the United States Court of Customs and Patent Appeals on June 7, 1978 directing the Customs Court to stay proceedings in Airco, Inc. v. Court No. 76-3-00643, in which Airco had appealed from refusal of the Secretary of the Treasury to impose countervailing duties on certain imports from the Union of South Africa, pending a decision in Appeal No. 78-10; and to supplement the record for the appeal by making findings of fact and conclusions of law in support of orders of the Customs Court entered on December 14, 1977 and February 28, 1978. In the Matter of N.C. Trading Company, Inc. v. U.S., 1978, 80 Cust.Ct. 258, C.R.D. 78-8.

2. Collateral estoppel A state of facts or cause of action that has been reduced to a final judgment in a court of competent jurisdiction may not again be the subject of a new litigation in the same court, even though the earlier adjudication may have been founded on an erroneous view or application of the law. H. M.

suspend r case, in epetitious rowed by was loath i priority, cr action.

Yound Associates, Inc. v. U.S., 1972, 349 F.Supp. 1007, 69 Cust.Ct. 155, C.D. 4388.

3 Intervention Consolidation of motions to intervene granted even though unaccompanied with a proposed pleading as denial would be an inappropriate exer-

cise judicial discretion respecting a technical but curable objection resulting in waste of judicial time and economy and unnecessary expenses and in view of intent of Congress that dumping review proceedings be handled expeditiously and with preference over other matters. Zenith Radio Corp. v. U.S., 1981, 2 CIT 141.

CHAPTER 171—TORT CLAIMS PROCEDURE

Sec. 2672. Administrative adjustment of claims.

1966 Amendment. Pub.L. 89-506, § 9(b), July 18, 1966, 80 Stat. 30, substituted "claims" for "claims of \$2,500 or less" in item 2672.

§ 2671. Definitions

As used in this chapter and sections 1346(b) and 2401(b) of this title, the term "Federal agency" includes the executive departments, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States.

"Employee of the government" includes officers or employees of any federal agency, members of the military or naval forces of the United States, members of the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

"Acting within the scope of his office or employment", in the case of a member of the military or naval forces of the United States or a member of the National Guard as defined in section 101(3) of title 32, means acting in line of duty.

(As amended July 18, 1966, Pub.L. 89-506, § 8, 80 Stat. 307; Dec. 29, 1981, Pub.L. 97-124, § 1, 95 Stat. 1666.)

1981 Amendment. Pub.L. 97-124 added "members of the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32," in the definition of "Employee of the government" and "or a member of the National Guard as defined in section 101(3) of title 32" in the definition of "Acting within the scope of his office or employment".

sure, application to, see section 2212 of Title 42, The Public Health and Welfare.

Secretary of the Interior, volunteers contributing services in connection with management, protection, development, acquisition, and conveying of public lands, see section 1737 of Title 43, Public Lands.

Settlement of claims for damages caused by Federal Bureau of Investigation that may not be settled under this chapter, see section 3724 of Title 31, Money and Finance.

Settlement of small claims for privately owned property damage or loss that may not be settled under this chapter, see section 3723 of Title 31, Money and Finance.

1966 Amendment. Pub.L. 89-506 expanded the definition of "Federal agency" to include military departments.

Effective Date of 1981 Amendment. Amendment by Pub.L. 97-124 applicable only with respect to claims arising on or after Dec. 29, 1981, see section 4 of Pub.L. 97-124, set out as a note under section 1089 of Title 10, Armed Forces.

Effective Date of 1966 Amendment. Amendment of section by Pub.L. 89-506 applicable to claims accruing six months or more after July 18, 1966, see section 10 of Pub.L. 89-506, set out as a note under section 2672 of this title.

Legislative History: For legislative history and purpose of Pub.L. 89-506, see 1966 U.S. Code Cong. and Adm. News, p. 2515. See, also, Pub.L. 97-124, 1981 U.S. Code Cong. and Adm. News, p. 2692.

Cross References

Atomic weapons testing program, contractor liability for injury or death due to radiation expo-

Federal Practice and Procedure

Commencement of third-party action by defendant in tort action, see Wright & Miller: Civil § 2376.

Consolidation of tort actions, see Wright & Miller: Civil §§ 2382, 2384.

Dismissal of tort actions, see Wright & Miller: Civil § 2372.

Excuse for lack of prosecution of tort actions, see Wright & Miller: Civil § 2370.

Impleading government employees, see Wright & Miller: Civil § 1447.

Joinder of individuals as codefendants with United States, see Wright & Miller: Civil § 1658.

Jury trial of third-party claim by United States in tort actions, see Wright & Miller: Civil § 2315.

# MEMORANDUM

# State of Alaska

TO: Chris Christensen  
Legislative Aide  
Senate Judiciary Committee

DATE: February 24, 1989

FILE NO.: SB94-3

THRU:

TELEPHONE NO.: 465-4600

SUBJECT: Suggested language  
change to SB94

*J Morrison*  
FROM: Jeff Morrison, Director  
Administrative & Support  
Services Division  
Department of Military &  
Veterans Affairs

In the Senate Judiciary Committee meeting held on February 23, Senator Faiks requested that we work together to develop a language change to SB94 which would remove specific reference to federal statutes from the text of the bill. The language that was originally submitted in SB94 was patterned after the language enacted by the states of California and Idaho. The State of Washington has enacted language which may be more to the liking of the Committee, as follows:

IMMUNITY FROM TORT LIABILITY. Neither the State of Alaska, its officers, employees, or agents, nor any member of the militia may be held liable in any civil action for damages arising out of any of the activities of the military forces of the State of Alaska while engaged in activities during which the officers, employees, agents, or members are considered employees of the federal government under the federal tort claims act, 26 U.S.C. Sec 2671 et seq.

The above language still contains a reference to the location in federal statutes of the federal tort claims act. In order to avoid the bill creating a blanket immunity for all acts of the Alaska National Guard, or from being overly vague, we believe that some degree of specificity regarding federal law is inescapable. This has not presented a problem for other states, and hopefully would not present a problem for the Judiciary Committee.

It is probably worth noting that the references to duty status in the original version of SB94 (i.e. 32 U.S.C. 316, 502, 503, 504, and 505) have existed in federal statutes essentially unchanged since 1916. The likelihood of any change in these references is felt to be virtually negligible. Any change in these statutes would constitute a fundamental change in the way the National Guard operates in every state.

In the event that the Committee still wishes to expunge from Alaska Statutes any reference to federal law, by ending the suggested language just before the reference, we would request that there be a letter of intent to specify the (current) legal reference for the federal tort claims act, and the (current) legal references for the duty status of National Guard activities covered under the federal tort claims act—i.e. 32 U.S.C. 316, 502, 503, 504, and 505.

We look forward to meeting with the Committee next Tuesday.

cc: Major Gary Bowen, Staff Judge Advocate, DMVA  
Art Peterson, Department of Law  
Shari Kochman, Governor's Legislative Office

# STATE OF ALASKA

## DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

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January 31, 1989

The Honorable Jan Faiks  
Chairman, Senate Judiciary Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811


Dear Senator Faiks,

This letter is to request that you schedule a hearing on SB94 in the Senate Judiciary Committee.

Senate Bill 94, introduced by the Governor, limits the liability of the State of Alaska when National Guard members are involved in federally-mandated guard activities. This bill was heard in the Senate State Affairs Committee and received four "do pass" recommendations.

I am enclosing pertinent backup information concerning this bill. Please contact me if you need any additional information.

Sincerely,

  
Jeff Morrison, Director  
Administrative and Support Services

January 9, 1989

SB 93 cont'd

For purposes of computing workers' compensation benefits for a member of the organized militia, the bill provides that a member's earnings are presumed to be no less than the pay and allowances authorized for a member of the armed forces in the same grade and rank as the member at the time of the injury or death. Section 4 of the bill, in proposed AS 26.05.260(1). The bill also provides that members, or survivors of members, of the Alaska National Guard must apply for available benefits payable by the federal government for the injury or death of the member, and that workers' compensation payments will be reduced by the amount payable by the federal government for the disability or death. Section 4 of the bill, in proposed AS 26.05.260(k). The provisions on the federal setoff apply only to the National Guard because, of the three components of the organized militia, only that one is entitled to federal compensation under federal law. Notwithstanding the federal benefits, there will be some occasions when individuals will have recourse to the Alaska workers' compensation system. Therefore, some additional appropriation to cover the premium for this responsibility is anticipated.

This bill, then, provides for equity among the three components of Alaska's organized militia, and appropriately provides for setoff of federal payments. I commend it to you.

Sincerely,

/s/  
Steve Cowper  
Governor

SB 94

SENATE BILL NO. 94 by the Rules Committee by request of the Governor, entitled:

"An Act limiting liability for certain activities of the Alaska National Guard."

was read the first time and referred to the State Affairs Committee and the Judiciary Committee.

Fiscal notes published today from Department of Military and Veterans Affairs and the Department of Administration.

January 9, 1989

SB 94 cont'd

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to liability immunity of the state, its employees and agents, and members of the Alaska National Guard.

While training or on duty under federal mandate, the state national guards are performing a United States Government activity. Nevertheless, there have been occasions in which states, rather than the United States, have been exposed to tort liability for injuries or damage resulting from federally mandated guard activities.

In 1981, Congress amended 28 U.S.C. 2671 by adding to the definition of "employees of the government" members of the National Guard while training or on duty under federal order under 32 U.S.C. The effect of this amendment was to clarify that the United States considers the Guard as a federal function during 32 U.S.C. activities and that claims for injuries resulting from such activities could be pursued under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. In spite of this change in the law, there are rare occasions when the state remedy is preferred by an injured third party, who consequently will file a claim for damages in state court on the basis of state law. This bill will prevent suits of this nature, and assure that persons injured or property damaged as a result of federally mandated and controlled Guard activities will be required to seek damages from the United States Government. Existing worker's compensation coverage of guardsmen will not be affected by this bill.

Sincerely,

/s/  
Steve Cowper  
Governor

SB 95

SENATE BILL NO. 95 by the Rules Committee by request of the Governor, entitled:

"An Act authorizing the combining of a sales and use tax proposition with incorporation of a borough; and providing for an effective date."

was read the first time and referred to the Community and Regional Affairs Committee.

# STATE OF ALASKA

## DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

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January 19, 1989

The Honorable Pat Pourchot  
Chairman, Senate State Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

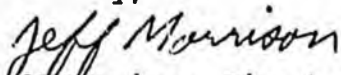
Dear Senator Pourchot,

Thank you for scheduling a hearing for SB 94 in your committee. This bill, introduced by the Governor, protects the State from liability when members of the Alaska National Guard are acting under federally-mandated training.

This bill was introduced in the Fifteenth Legislature as SB 91, in virtually the same language as it now reads. Enclosed is a copy of SB 91 as it was introduced two years ago. SB 91 passed the Senate by a vote of 17-2 on April 2, 1987. In the House, it was referred out of the State Affairs Committee on April 17, 1987 with a report of 3 "do pass" and 2 "no recommendation." It remained in the House Judiciary Committee until the end of the Fifteenth Legislature.

The Staff Judge Advocate of the Alaska National Guard, Major Gary Bowen, sent a letter, dated March 18, 1988, to the Chairman of the House Judiciary Committee, concerning SB 91. A copy of that letter is enclosed for your information, as the reasons for our support of this bill have not changed. Please let me know if there is any additional information you need concerning SB 94.

Sincerely,



Jeff Morrison, Director

cc: Major Gary Bowen, Staff Judge Advocate, DMVA  
Bob Evans, Deputy Chief of Staff, Governor's Office



## DEPARTMENTS OF THE ARMY AND THE AIR FORCE

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18 March 1988

John Sund  
House of Representatives  
Post Office Box V  
Juneau, Alaska 98111

Subject: Senate Bill 91

Dear Representative Sund:

On behalf of the Adjutant General, the Alaska National Guard, and the Department of Military and Veterans Affairs I write to express interest in seeing Senate Bill 91 positively endorsed by the House Judiciary Committee. The bill is the product of the cumulative experience of many states. Alaska is one of the few states that to date has not enacted protective legislation to insure that the state is not held liable in tort for federally mandated training of the National Guard.

In order to appreciate the National Guard perspective on this matter, some background may be in order. In the early 1970s the President and Congress of the United States determined that the National Guard should become a more integral and functioning part of our national defense forces. Therefore, in the decade, Alaska National Guard units have intensified the complexity and frequency of their military training with active duty units of the Army, the Air Force, as well as the other services.

Then in 1981 Congress amended the Federal Tort Claims Act to permit suits against the United States for injuries or damage resulting from National Guard training. Until that time, persons who were injured because of National Guard activities had no recourse against the federal government and could seek redress only against the state military department concerned or against the individual Guardsperson. Congress so acted because nearly all of the training conducted by National Guard units today is done in accordance with procedures, programs, and direction issued by the United States Department of Defense through both Army and Air Force operational commands. Since the United States funds approximately 95% of all National Guard activities, it is appropriate that the United States should assume financial responsibility for this often hazardous training.

After the 1981 amendment to the Federal Tort Claims Act, a number of states amended their laws to provide that the state would not be liable for National Guard training accidents when the training or duty is being conducted pursuant to federal statutory requirements or authorization. As noted above, Alaska has not responded to this change in federal law.

Often the impetus for such remedial legislation is not provided until a law suit demonstrates the need to respond. A case in point is the recent experience of the State of Washington.

In 1983, while conducting weekend training at Fort Lewis, a Washington National Guard unit was involved in an accident which resulted in the death of 2 soldiers, and the injury of 4 others who were assigned at Fort Lewis. Those individuals or their estates sued the state of Washington alleging negligence. The state moved to dismiss the suit on grounds that the state of Washington ought not to bear the cost and trauma of defending suits arising out of national defense training (Emsley v. State, 106Wn.2d 474).

Ultimately, the Washington Supreme Court rejected the appeal and held there was no bar in Washington to the suit. The concurring judges noted that this legislative omission "should be corrected by the Legislature." The Washington legislature at the urging of the Washington National Guard and with the consent of the Washington Trial Lawyers Association followed the judicial suggestion and adopted the following statutory language:

"Neither the state of Washington, its officers, employees, or agents nor any member of the militia may be held liable in any civil action for damages arising out of any of the activities of the military forces of the state of Washington while engaged in activities during which the officers, employees, agents, or members are considered employees of the federal government under the federal tort claims act, 26 U.S.C. Sec. 2671 et seq."

California has also recently addresses this issue. Section 816 of the California Government Code states:

"A public entity is not liable for injury arising out of any activity conducted by a member of the California National Guard pursuant to Section 316, 502, 503, 504, or 505 of Title 32 of the United States Code and compensated pursuant to the Federal Tort Claims Act.

It is the intent of the Legislature, in enacting this section, to conform state law regarding liability for activities of the National Guard to federal law as expressed in Public Law 97-124.

(Added by Stats.1982, c.616,p. 2600, s 1.)"

Idaho has recently adopted a statute similar in language to Senate Bill 91. Although worded somewhat differently, these statutory enactments from sister states reflect their public policy, to wit, to immunize the State in cases where the federal government has agreed to be responsive in damages under the Federal Tort Claims Act (FTCA). By adopting Senate Bill 91 Alaska would be following the lead of other western/northwestern states in asserting immunity from federally mandated training of the National Guard.

The National Guard operates in one of three duty statuses. It may be called to active federal service by the President in which case the Guard is merged with the active forces. The torts committed by active duty soldiers incident to their employment as soldiers of the United States is compensated under the FTCA. Another status is that of state active duty where the Governor calls members of the National Guard to state active duty under AS 26.05.070. Torts which occur incident to this duty status subject the state to tort liability. SB 91 would not affect the liability of the State of Alaska during periods of state active duty. AS 26.05.140 immunizes officers and enlisted members of the militia for acts done in an official capacity, AS 26.05.150 immunizes commander of the militia for exercises in judgement. The most common status of the National Guard is that in which the National Guard participates in reserve component training under Title 32 United States Code (USC). Although this is a federally paid and federally mandated training function, it is often referred to as "state status". The state status refers to the fact that the Adjutant General who is appointed by the Governor, is in command of the National Guard during training under Title 32 USC. It is this concept of state status that potentially exposes the State of Alaska to liability for training mandated by federal authorities. Under the Federal Constitutional scheme the discretionary power to determine the training necessary for the militias of the various states is vested in the Congress. The operational authority has been vested in the states. Article 1, Section 8 of the U.S. Constitution provides that the Congress shall have power...

To provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress...

Congress has mandated that the discipline, including training of the National Guard conform to that of the active components of the Army and Air Force. 32 USC 501(a). Although the Governor is the commander and chief during these periods of training, the failure to conduct the training as prescribed by federal authorities could result in the loss of federal recognition and the federal funding which goes with that recognition. Since it is unlikely that the Governor would ever refuse to conduct the federally mandated National Guard training during service under Title 32 USC, the potential for exposure is great notwithstanding that the Governor has virtually no discretion over the type and manner of training. Under these circumstances it seems inappropriate that the State of Alaska should be responsible for any personal injury or property damage which occurs incident to this training.

In the 1981 Amendments to the FTCA Congress determined that federal government responsibility for personal injury or property damage incident to National Guard training should be coextensive with that for the Army and the Air Force Reserve. Since there is no state responsibility for Army or Air Force Reserve training, it seems appropriate that the state should assert immunity. The United States has waived sovereign immunity under the FTCA and has consented to be responsible in damages just as

though it were a private citizen. The law to be applied is the law of the situs of the injury. In other words, an Alaskan injured incident to National Guard training would have a remedy against the United States and the applicable tort law is that of Alaska. I understand that there is some apprehension in the House Judiciary Committee that Senate Bill 91 would leave Alaskans without a remedy in the event of personal injury or property damage which incurred incident to National Guard training. This is not so. Alaskans injured incident to National Guard training do have a remedy and that remedy is against the federal authority who has directed the training.

One final matter which should be mentioned. The question has been raised concerning why someone would sue the State of Alaska if the federal government will respond in damages. The answer may be found in Alaska's collateral source rule. As an attorney you understand that the collateral source rule means that settlement by one tortfeasor is not a set off against other tortfeasors. Therefore, assuming that someone were to obtain a settlement from the United States under FTCA or even achieve judgement, there would be no prohibition against then re-litigating those issues vis a vis the State of Alaska. Without passage of Senate Bill 91 it would be possible for anyone injured by National Guard Training to pursue both a federal and state remedy and achieve a double recovery!

Alaska Air National Guard deployments outside the State of Alaska are not unusual. Often these deployments are overseas. As this letter was being composed, elements of the Alaska Air National Guard were in Panama. Personal injury and property damage incident to military operation overseas (outside the United States) are subject to the Military Claims Act. Damage incident to military operations inside the United States or its' territories are subject to the FTCA.

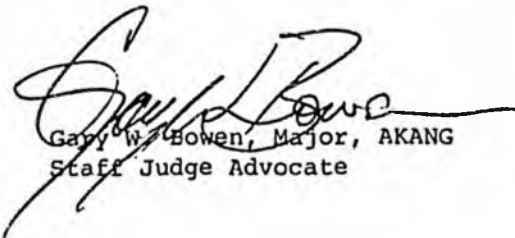
Notwithstanding these federal remedies, without Senate Bill 91, claims could be prosecuted against the U.S. under the FTCA and against the State of Alaska. It is not clear that the public policy of Alaska should be that the whole world has a cause of action against the state for damages occurring incident to training ordered by federal authorities.

I hope the foregoing explains why the National Guard and the Department of Military and Veterans Affairs believes that this bill is in the best interest of the state and in the best interest of the whole body politic of the State of Alaska. The bill would not leave residents of the State of Alaska remediless in the event of torts perpetrated by the Alaska National Guard. The FTCA gives them a remedy under the laws of the State of Alaska.

If this letter raises additional questions or if you would like further explanation about the matters contained herein, please do not hesitate to ask. I would be happy to arrange a meeting with National Guard attorneys if such would be of assistance to you. Additionally, I can arrange for a meeting with the active Army and Air Force Judge Advocates who can explain how the FTCA works to remedy personal injury or

property damage incident to training and operation of the armed forces of the United States. On behalf of the Department of Military and Veterans Affairs I earnestly solicit your support for this bill and request that it be favorably endorsed by the House Judiciary Committee.

FOR THE ADJUTANT GENERAL



Gary W. Bowen, Major, AKANG  
Staff Judge Advocate

Territory, Puerto Rico, the Canal Zone, and the District of Columbia. The Secretary of the Air Force shall detail commissioned officers of the Regular Air Force to duty with the Air National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. With the permission of the President, an officer so detailed may accept a commission in the Army National Guard or the Air National Guard, as the case may be, terminable in the President's discretion, without prejudicing his rank and without vacating his regular appointment.

(b) The Secretary of the Army may detail enlisted members of the Regular Army for duty with the Army National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. The Secretary of the Air Force may detail enlisted members of the Regular Air Force for duty with the Air National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia.

(Aug. 10, 1956, ch 1041, § 2, 70A Stat. 604.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Prior law and revision:

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
315(a) .....	32:68 (less 2d sentence). 32:69.	June 3, 1916, ch 134, § 100, 39 Stat. 208.
315(b) .....	32:68 (2d sentence).	

In subsec. (a), 32 USC § 68 (last sentence) is omitted as surplusage, since positive provisions relating to the assignment or detail of retired officers to that duty are covered by 10 USCS § 3504(a) or 8504(a). The words "of the active list", in 32:68, are omitted for the same reason. The words "so detailed" are substituted for the words "detailed under section 68 of this title", in 32 USC § 69. The words "relative or lineal", in 32 USC § 69, are omitted as surplusage.

#### CROSS REFERENCES

Details of regular and reserve components for instruction of reserve components, 10 USCS § 715.

Assignments of regular or reserve officers to duty in National Guard Bureau, 10 USCS §§ 3541 and 8541.

#### § 316. Detail of members of Army National Guard for rifle instruction of civilians

The President may detail officers and noncommissioned officers of the Army National Guard to duty as instructors at rifle ranges for the training of civilians in the use of military arms.

(Aug. 10, 1956, ch 1041, § 2, 70A Stat. 605.)

Compensation for disablement during training, 32 USCS §§ 318 and 319.

When Secretary of Army or Secretary of Air Force may require hospitalization for injuries received in training, 32 USCS § 320.

Death gratuity for death in training, 32 USCS § 321.

Liability of National Guard medical personnel for malpractice occurring during training exercise to be paid by United States, 32 USCS § 334.

Payment of claims for property damage or personal injury resulting from training exercises, 32 USCS § 715.

Training duty compensation of members of National Guard, 37 USCS § 301.

Active duty for training, 38 USCS § 101(22).

Inactive duty training, 38 USCS § 101(23).

### INTERPRETIVE NOTES AND DECISIONS

Because there was but grant of authority to state for participation in training offered and afforded by federal government and because no burden was impressed upon or power granted to federal government in this connection beyond provision for training of National Guard organi-

zations of states and territories under auspices and by use of federal facilities, national guardsman was in service of state during period of training. *Lind v Nebraska Nat. Guard* (1944) 144 Neb 122, 12 NW2d 652, 150 ALR 1449.

### § 502. Required drills and field exercises

(a) Under regulations to be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, each company, battery, squadron, and detachment of the National Guard, unless excused by the Secretary concerned, shall—

(1) assemble for drill and instruction, including indoor target practice, at least 48 times each year; and

(2) Participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year.

However, no member of such unit who has served on active duty for one year or longer shall be required to participate in such training if the first day of such training period falls during the last one hundred and twenty days of his required membership in the National Guard.

(b) An assembly for drill and instruction may consist of a single ordered formation of a company, battery, squadron, or detachment, or, when authorized by the Secretary concerned, a series of ordered formations of parts of those organizations. However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within 30 consecutive days.

(c) The total attendance at the series of formations constituting an assembly shall be counted as the attendance at that assembly for the required period. No member may be counted more than once or receive credit for more than one required period of attendance, regardless of the number of formations that he attends during the series constituting the assembly for the required period.

(d) No organization may receive credit for an assembly for drill or indoor target practice unless—

- (1) the number of members present equals or exceeds the minimum number prescribed by the President;
- (2) the period of military duty or instruction for which a member is credited is at least one and one-half hours; and
- (3) the training is of the type prescribed by the Secretary concerned.

(e) An appropriately rated member of the National Guard who performs an aerial flight under competent orders may receive credit for attending drill for the purposes of this section, if the flight prevented him from attending a regularly scheduled drill.

(f) Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may—

- (1) without his consent, but with the pay and allowances provided by law; or
- (2) with his consent, either with or without pay and allowances;

be ordered to perform training or other duty in addition to that prescribed under subsection (a). Duty without pay shall be considered for all purposes as if it were duty with pay.

(Aug. 10, 1956, ch 1041, § 2, 70A Stat. 610; Oct. 3, 1964, P. L. 88-621, § 1(1), 78 Stat. 999; Dec. 1, 1967, P. L. 90-168, § 4, 81 Stat. 526; Nov. 17, 1971, P. L. 92-156, Title III, § 303(b), 85 Stat. 425.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

**Prior law and revision:**

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
502(a) . . . . .	32:62 (1st sentence, less proviso).	June 3, 1916, ch 134, § 92; restated June 3, 1924, ch 244, § 2; restated Oct. 14, 1940, ch 875, § 2, 54 Stat. 1135; Mar. 25, 1948, ch 157, § 5(a), 62 Stat. 90.
502(b) . . . . .	32:62 (proviso of 1st sentence).	
502(c) . . . . .	32:62 (last sentence, less 1st, 2d, and 3d provisos).	
502(d) . . . . .	32:62 (1st proviso of last sentence).	
502(e) . . . . .	32:62 (2d and 3d provisos of last sentence).	

In subsec. (a), the words "including target practice" and "such company, troop, battery, or detachment shall have been . . . from participation in any part thereof" are omitted as surplusage.

In subsec. (a) and (b), the word "troop" is omitted as obsolete.

In subsec. (b), the words "parts of those organizations" are substituted for the words "subdivisions or parts thereof". The words "but in the latter case", "of subdivisions or groups", "comprehend", and "the time limit of" are omitted as surplusage.

In subsec. (c), the word "member" is substituted for the words "officer, warrant officer, or enlisted man". The words "series of formations" are substituted for the words "separate consecutive formations announced". The words "regardless of the number of formations that he attends during the series" are substituted for the words "even though he may have attended more than one of the formations". The words "sum", "actual military", and "of time" are omitted as surplusage. 32 USC § 62 (4th proviso of last sentence) is omitted as superseded by 10 USCS § 683. 32 USC § 62 (last proviso of last sentence) is omitted as superseded by section 501(b) of the Career Compensation Act of 1949, 63 Stat. 826 (37 USC §§ 301(b)).

In subsec. (d), the word "members" is substituted for the words "officers and enlisted men". The words "for which a member is credited" are substituted for the words "participated in by each officer and enlisted man at each assembly at which he shall be credited as having been present". The words "for duty at such assembly", "actual", and "character of" are omitted as surplusage.

In subsec. (e), the word "member" is substituted for the words "officer or enlisted man". The words "Air Corps . . . assigned to an Air Corps unit thereof, or . . . an officer or enlisted man of the Medical Department of the said National Guard regularly attached to an Air Corps unit of the National Guard by appropriate authority" are omitted, since the revised subsection applies only to members who perform flights under competent orders and who are thereby prevented from attending a regular drill.

#### Amendments:

1964. Act Oct. 3, 1964 added subsec. (f).

1967. Act Dec. 1, 1967 (effective on the first day of the first calendar month following 12/1/67, as provided by § 7 of such Act), in subsec. (b), substituted "However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within 30 consecutive days." for "However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within seven consecutive days of the same calendar month."

1971. Act Nov. 17, 1971, in subsec. (a), added the concluding sentence.

#### CROSS REFERENCES

Restoration of government employees to previous positions after being ordered to active duty or to duty under 32 USCS § 502, 5 USCS § 3551.

Compensation for disablement during training, 32 USCS §§ 318, 319.

Hospitalization for persons sustaining injuries in training, 32 USCS § 320.

Death gratuity for death incurred in training, 32 USCS § 321.

Liability of National Guard medical personnel for malpractice occurring during training exercise to be paid by United States, 32 USCS § 334.

Payment of claims for property damage or personal injury resulting from training exercises, 32 USCS § 715.

This section is referred to in 5 USCS §§ 3551, 5517, 6323; 10 USCS §§ 268, 701, 1208, 1332, 1333, 3571, 3686, 8571, 8686; 32 USCS §§ 318, 320, 321, 334, 715; 37 USCS § 204; 38 USCS §§ 101, 765, 2024; 50 USCS Appx § 456.

Injured party was not member of National Guard of Rhode Island of Armed Forces of United States. He was injured while at army firing exercises for purpose of training in firing M-1 rifle and fell into definition of Army member under 32 USCS § 101 and was eligible for 32 USCS § 502 to participate

#### § 503. Participating

(a) Under such regulations as the Army and the Secretary of Defense provide for the participation in maneuvers, outdoor defense instruction, instruction in the Air Force, or both.

(b) Amounts necessary to defray proper expenses of an individual in Puerto Rico, the Canal Zone, or an exercise under subsection (a) from appropriations for such purposes.

(c) Members of the National Guard under subsection (a) may, at the discretion of the Secretary of Defense, with the date of leave determined in advance, receive credit of the disbursing officer (Aug. 10, 1956, ch 10).

#### HISTORY

Prior law and revision

##### Revised Section

503(a) .....  
503(b) .....  
503(c) .....

In subsec. (a), the words "Regular Air Force" are omitted as surplusage. The words "Regular Air Force" participate in the exercise only. Similarly, the words "Regular Air Force" participate in the exercise only. Similarly, the words "Regular Air Force" participate in the exercise only.

In subsec. (b), the words "such purposes" are substituted for the words "participating in the exercise". The words "as sh

INTERPRETIVE NOTES AND DECISIONS

Injured party was not merely member of National Guard of Rhode Island but also member of Armed Forces of United States since party was injured while at army base for weekend firing exercises for purpose of annual qualification in firing M-1 rifle and since injured party fell into definition of Army National Guard under 32 USCS § 101 and was required under 32 USCS § 502 to participate in certain training

activities, in which he was involved at time of his injury. *Coletta v United States* (1969, DC RI) 100 F Supp 19.

In the case of full time duty performed under 32 USCS § 502(f), full active duty pay and allowances are authorized. *Kentucky Nat. Guard v Bayles* (1976, Ky) 535 SW2d 234.

§ 503. Participation in field exercises

(a) Under such regulations as the President may prescribe, the Secretary of the Army and the Secretary of the Air Force, as the case may be, may provide for the participation of the National Guard in encampments, maneuvers, outdoor target practice, or other exercises for field or coast-defense instruction, independently of or in conjunction with the Army or the Air Force, or both.

(b) Amounts necessary for the pay, subsistence, transportation, and other proper expenses of any part of the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia participating in an exercise under subsection (a) may be set aside from funds allocated to it from appropriations for field or coast-defense instruction.

(c) Members of the National Guard participating in an exercise under subsection (a) may, after being mustered, be paid for the period beginning with the date of leaving home and ending with the date of return, as determined in advance. If otherwise correct, such a payment passes to the credit of the disbursing officer.

(Aug. 10, 1956, ch 1041, § 2, 70A Stat. 610.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
503(a) .....	32:63 (1st 56 words).	June 3, 1916, ch 134,
503(b) .....	32:63 (less 1st 56 words).	§§ 94 (less last 43
503(c) .....	32:158.	words after semicolon), 98, 39 Stat. 206, 207.

In subsec. (a), the words "the whole or any part" and "any part of" are omitted as surplusage. The word "Army" is substituted for the words "Regular Army", since the Army is the category that participates in the exercises, and the Regular Army is a personnel category only. Similarly, the words "Air Force" are used instead of the words "Regular Air Force".

In subsec. (b), the words "Amounts necessary" are substituted for the words "such portion of said funds as may be necessary". The words "participating in an exercise under subsection (a)" are substituted for the words "as shall participate in such encampments, maneuvers, or

other exercises, including outdoor target practice, for field and coast-defense instruction". The words "allocated to it from appropriations for field or coast-defense instruction" are substituted for the words "appropriated for that purpose and allocated to any State, Territory, or the District of Columbia".

In subsec. (c), the words "Members of the National Guard participating in an exercise under subsection (a)" are substituted for the words "When any portion of the National Guard shall participate in encampments, maneuvers, or other exercises, including outdoor target practice, for field or coast-defense instruction, under the provisions of this title". The words "duly", "at any time", "rendezvous", "both dates inclusive", and "making the same" are omitted as surplusage.

#### CROSS REFERENCES

Restoration of government employees to previous positions after being ordered to active duty or to duty under 32 USCS § 503, 5 USCS § 3551.

Compensation for disablement during training, 32 USCS §§ 318, 319.

Hospitalization for persons sustaining injuries in training, 32 USCS § 320.

Death gratuity for death incurred in training, 32 USCS § 321.

Liability of National Guard medical personnel for malpractice occurring during training exercise to be paid by United States, 32 USCS § 334.

Payment of claims for property damage or personal injury resulting from training exercises, 32 USCS § 715.

Training duty compensation of members of National Guard, 37 USCS §§ 232, 301.

Regulations affecting pay and allowances of military personnel, 37 USCS § 324.

This section is referred to in 5 USCS §§ 3551, 6323; 10 USCS §§ 701, 1208, 1332, 1333, 3571, 3686, 8571, 8686; 32 USCS §§ 318, 319, 320, 321, 334, 715, 37 USCS § 204; 38 USCS §§ 101, 765, 2024.

#### INTERPRETIVE NOTES AND DECISIONS

When called for training by governor through order of Adjutant General under 32 USCS § 503, enlisted member of National Guard is in service

of State National Guard. *Lind v Nebraska Nat. Guard* (1944) 144 Neb 122, 12 NW2d 652, 150 ALR 1449.

#### § 504. National Guard schools and small arms competitions

(a) Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, members of the National Guard may—

- (1) attend schools conducted by the Army or the Air Force, as appropriate;
- (2) conduct or attend schools conducted by the National Guard; or
- (3) participate in small arms competitions.

(b) Activities authorized for members of the National Guard of a State or Territory of Columbia may be held (Aug. 10, 1956, ch 10 § 1(2), 78 Stat. 999.)

#### HISTORY

Prior law and revision

Revised Section	Section
504(a)	3
504(b)	3

In subsec. (a), the words "officers, warrant officers, and noncommissioned officers for that purpose" and "for that purpose" are substituted for the words "officers, warrant officers, and noncommissioned officers of the National Guard, Zone, or the District of Columbia boundaries" are substituted for the words "State, Territory, or District of Columbia National Guard".

Amendments:

1964. Act Oct. 3, 1964.

"(a) Under such regulations as the Secretary of the Army or the Secretary of the Air Force may prescribe, members of the Army National Guard or the Air National Guard may—

"(1) to attend schools conducted by the

Regular Army or the Regular Air Force, as appropriate;

"(2) to participate in small arms competitions.

"Similarly, the Secretary of the Army or the Secretary of the Air Force may prescribe regulations for members of the National Guard of a State or Territory of Columbia who are in service of the National Guard of a State or Territory of Columbia.

"(1) to attend schools conducted by the

Regular Air Force or the Regular Army, as appropriate;

"(2) to participate in small arms competitions.

"(b) Assemblies authorized for members of the National Guard of a State or Territory of Columbia may be held in the District of Columbia.

Restoration of government employees to previous positions after being ordered to active duty or to duty under 32 USCS § 503, 5 USCS § 3551.  
Compensation for disablement during training, 32 USCS §§ 318, 319.  
Hospitalization for persons sustaining injuries in training, 32 USCS § 320.  
Death gratuity for death incurred in training, 32 USCS § 321.

(b) Activities authorized under subsection (a) for members of the National Guard of a State or territory, Puerto Rico, the Canal Zone, or the District of Columbia may be held inside or outside its boundaries.

(Aug. 10, 1956, ch 1041, § 2, 70A Stat. 611; Oct. 3, 1964, P. L. 88-621, § 1(2), 78 Stat. 999.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

**Prior law and revision:**

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
504(a) .....	32:64 (1st sentence).	June 3, 1916, ch 134, § 97 (less last sentence); restated May 28, 1926, ch 417, § 2 (less last sentence), 44 Stat. 674.
504(b) .....	32:64 (less 1st sentence).	

In subsec. (a), the word "members" is substituted for the words "officers, warrant officers, and enlisted men". The words "for the purpose" and "for that purpose" are omitted as surplusage.

In subsec. (b), the words "Assemblies under subsection (a)" are substituted for the words "such assemblages". The words "for members of the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia . . . inside or outside of its boundaries" are substituted for the words "either within or without the State, Territory, or District of Columbia, to which the members of the National Guard designated to attend them shall belong".

**Amendments:**

1964. Act Oct. 3, 1964 substituted this section for one which read:

"(a) Under such regulations as the President may prescribe, the Secretary of the Army may provide for assemblies of members of the Army National Guard—

"(1) to attend schools conducted by commissioned officers of the Regular Army detailed by the Secretary; or

"(2) to participate in small arms competitions.

"Similarly, the Secretary of the Air Force may provide for assemblies of members of the Air National Guard—

"(1) to attend schools conducted by commissioned officers of the Regular Air Force detailed by the Secretary; or

"(2) to participate in small arms competition.

"(b) Assemblies under subsection (a) for members of the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia may be held inside or outside its boundaries."

**CROSS REFERENCES**

Restoration of government employees to previous positions after being ordered to active duty or to duty under 32 USCS § 504, 5 USCS § 3551.

Compensation for disablement during training, 32 USCS §§ 318 and 319.

Hospitalization for injuries incurred in training, 32 USCS § 320.

Death gratuity for death incurred in training, 32 USCS § 321.

Liability of National Guard medical personnel for malpractice occurring during training exercise to be paid by United States, 32 USCS § 334.

Payment of claims for property damage or personal injury resulting from training exercises, 32 USCS § 715.

This section is referred to in 5 USCS §§ 3551, 6323; 10 USCS §§ 701, 1208, 1332, 1333, 3571, 3686, 8571, 8686; 32 USCS §§ 318, 319, 320, 321, 334, 715; 37 USCS § 204; 38 USCS §§ 101, 765, 2024.

**§ 505. Army and Air Force schools and field exercises**

Under such regulations as the President may prescribe and upon the recommendation of the governor of any State or Territory, Puerto Rico, or the Canal Zone, or of the commanding general of the National Guard of the District of Columbia, the Secretary of the Army may authorize a limited number of members of its Army National Guard to—

- (1) attend any service school except the United States Military Academy, and to pursue a regular course of study at the school; or
- (2) be attached to an organization of the branch of the Army corresponding to the organization of the Army National Guard to which the member belongs, for routine practical instruction at or near an Army post during field training or other outdoor exercise.

Similarly, the Secretary of the Air Force may authorize a limited number of members of the Air National Guard to—

- (1) attend any service school except the United States Air Force Academy, and to pursue a regular course of study at the school; or
- (2) be attached to an organization of the Air Force corresponding to the organization of the Air National Guard to which the member belongs, for routine practical instruction at an air base during field training or other outdoor exercise.

(Aug. 10, 1956, ch 1041, § 2, 70A Stat. 611.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

**Prior law and revision:**

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
505 .....	32:65.	June 3, 1916, ch 134, § 99 (1st 133 words); restated Sept. 22, 1922, ch 423, § 5 (1st 129 words); restated May 28, 1926, ch 417, § 3 (1st 133 words), 44 Stat. 674.

The words "branch of the Army corresponding" are substituted for the words "same arm, corps, or department", to conform to 10 USCS §§ 3063 and 3064. In the second sentence, the words "organization of the Air Force corresponding" are substituted for the words "same arm, corps, or department", since the Air Force is not organized by statute into branches, arms, corps, or departments. The word "members" is

substituted  
The words  
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Restoration o  
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Compensation  
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Liability of N  
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This section is  
1332, 1333, 35  
715; 37 USCS

- 1. Generally
- 2. Relation to other la

- 1. Generally  
State, as employer,  
are members of Army  
absence to fulfill mil  
USCS § 505 to attend  
and field exercises.

**§ 506. Assignm  
Regular Air Fo**

(a) The President  
members of the  
necessary.

(b) The Secretar  
to attend an enc  
defense instructio  
of the Air Force  
exercises for field  
Members so deta  
the exercise, as d  
governor or com  
(Aug. 10, 1956, c

practice occurring  
USCS § 334.  
injury resulting from

USCS §§ 701, 1208,  
19, 320, 321, 334,

exercises

to be performed on the  
territory, Puerto Rico, or  
National Guard of  
the United States may authorize a  
commander to—  
1. Detail members of the  
Army National Guard to  
attend military academies,  
schools, or  
2. Detail members of the  
Army National Guard to  
attend military training  
schools or near an Army

of a limited number

of the United States Air Force  
at the school; or  
3. Detail members of the  
United States Air Force  
corresponding to the  
rank of the member belongs,  
for field training or

ACTIVITIES

(at Large)

134,  
words);  
22,  
§ 5 (1st  
stated  
ch 417,  
ords), 44

substituted for the  
in 10 USCS  
organization of  
the words "same arm,  
authorized by statute  
"members" is

substituted for the words "officers, warrant officers, and enlisted men".  
The words "service school" are substituted for the words "military-  
service school of the United States". Reference to the United States Air  
Force Academy is inserted to reflect its establishment by the Air Force  
Academy Act (63 Stat. 47).

CROSS REFERENCES

Restoration of government employees to previous positions after being  
ordered to active duty or to duty under 32 USCS § 505, 5 USCS § 3551.  
Compensation for disablement during training, 32 USCS §§ 318 and 319.  
Hospitalization of persons injured in training, 32 USCS § 320.  
Death gratuity for death incurred in training, 32 USCS § 321.  
Liability of National Guard medical personnel for malpractice occurring  
during training exercise to be paid by United States, 32 USCS § 334.  
Payment of claims for property damage or personal injury resulting from  
training exercises, 32 USCS § 715.  
This section is referred to in 5 USCS §§ 3551, 6323; 10 USCS §§ 701, 1208,  
1332, 1333, 3571, 3686, 8571, 8616, 8686; 32 USCS §§ 318, 319, 320, 321,  
715; 37 USCS § 204; 38 USCS §§ 101, 765, 2024.

INTERPRETIVE NOTES AND DECISIONS

1. Generally
2. Relation to other laws

Transp. (1977, ND Fla) 443 F Supp 451, affd  
(CA5 Fla) 600 F2d 1070.

1. Generally

State, as employer, must grant employees who  
are members of Army National Guard leave of  
absence to fulfill military obligation under 32  
USCS § 505 to attend military training schools  
and field exercises. Peel v Florida Dept. of

2. Relation to other laws

Veterans' Reemployment Rights Act (38  
USCS § 2021 et seq.) applies to person called to  
duty under 32 USCS § 505 to attend Army  
training schools and field exercises. Peel v Flor-  
ida Dept. of Transp. (1977, ND Fla) 443 F  
Supp 451, affd (CA5 Fla) 600 F2d 1070.

§ 506. Assignment and detail of members of Regular Army or  
Regular Air Force for instruction of National Guard

(a) The President shall assign for instruction of the National Guard such  
members of the Regular Army or the Regular Air Force as he considers  
necessary.

(b) The Secretary of the Army may detail members of the Regular Army  
to attend an encampment, maneuver, or other exercise, for field or coast-  
defense instruction of the Army National Guard. Similarly, the Secretary  
of the Air Force may detail members of the Regular Air Force to attend  
exercises for field or coast-defense instruction of the Air National Guard.  
Members so detailed shall instruct the members of the National Guard at  
the exercise, as directed by the Secretary concerned, or as requested by the  
governor or commanding officer of the National Guard there assembled.  
(Aug. 10, 1956, ch 1041, § 2, 70A Stat. 611.)

\* SB 94

The State Affairs Committee considered SENATE BILL NO. 94 (An Act limiting liability for certain activities of the Alaska National Guard) and a majority of the committee recommended do pass. The report was signed by Senator Pourchot, Chair, and concurred in by Senators Adams, Faiks and Kelly.

Previous negative fiscal notes published from Department of Military and Veterans Affairs and Department of Administration, Risk Management Division.

SENATE BILL NO. 94 was referred to the Judiciary Committee.

SB 39

The Rules Committee considered SENATE BILL NO. 39 (An Act relating to Amateur Radio Week) and a majority of the committee recommended calendar. The report was signed by Senator Sturgulewski, Chair, and concurred in by Senators Kelly and Kerttula.

SENATE BILL NO. 39 is on today's calendar.

SB 89

The Rules Committee considered SENATE BILL NO. 89 (An Act relating to civil liability of zoos and zoo operators) and a majority of the committee recommended calendar. The report was signed by Senator Sturgulewski, Chair, and concurred in by Senators Kelly and Kerttula.

SENATE BILL NO. 89 is on today's calendar.

INTRODUCTION AND REFERENCE OF SENATE RESOLUTIONS

SCR 11

SENATE CONCURRENT RESOLUTION NO. 11 by Senators Kerttula and Szymanski,

Relating to the homeport of the M/V Tustumena.

was read the first time and referred to the Transportation Committee.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Dept. of Military & Veterans Affairs  
 Title: An act limiting liabilities for  
activities of the Alaska National Guard BRU: Alaska National Guard  
 Sponsor: Rules Committee Components: \_\_\_\_\_  
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY-89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
TOTAL	0	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The fiscal benefit is difficult to project because the State insurance deductible has varied, also this legislation would apply only to future claims. There could, however, be rather substantial savings in claims defense costs.

Prepared By: Donald J. Hitchcock Phone: 465-2180  
 Division: Risk Management Date: 12-19-88

Approved by Commissioner: John M. Andrews Date: 12-19-88  
 Agency: Department of Administration

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

## FISCAL NOTE

**REQUEST:**

Revision Date: December 22, 1988  
 Title: An Act limiting liability for activities of the Alaska National Guard  
 Sponsor: Rules Committee  
 Requestor: Governor  
 Agency Affected: Military & Veterans Affairs  
 BRU: Alaska National Guard  
 Components: Office of the Adjutant General

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		(50.0)	(50.0)	(50.0)	(50.0)	(50.0)

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Passage of this bill will reduce

the civil liability exposure of the State of Alaska. This reduction in exposure will be reflected by a reduction in the insurance costs charged to DMVA by the Division of Risk Management.

Prepared by: Jeff Morrison Phone: 465-4600  
 Division: Administrative & Support Services, DMVA Date: 1/11/89  
 Approved by Commissioner: John Schaeffer Date: 1/11/89  
 Agency: Department of Military & Veterans Affairs

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)