

1 AN ACT relating to benefits for Kentucky National Guard members.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 38.030 is amended to read as follows:

4 (1) Only the Governor shall have the authority to order units and members of the
5 Kentucky National Guard into state active duty.

6 (a) The Governor may order units and individual members of the Kentucky
7 National Guard into state active duty for any of the following purposes:

- 8 1. Protecting lives and property;
- 9 2. Assisting in disaster relief or other humanitarian efforts;
- 10 3. Preventing or suppressing riot or civil disorder;
- 11 4. Enforcing the laws of the Commonwealth; or
- 12 5. Other similar purpose.

13 (b) In addition to ordering personnel and units to state active duty, the Governor
14 may order other members of the Kentucky National Guard to participate in or
15 perform duty in support of state active duty missions notwithstanding the fact
16 that they are then entitled to receive federal pay and allowances pursuant to
17 Title 32 of the United States Code. The personnel may be ordered to perform
18 state active duty support missions either prior to, during, or after the time that
19 state active duty missions are planned or performed.

20 (c) Members of the National Guard who are ordered to perform duty as provided
21 in paragraph ~~[subsection (1)]~~(b) of this subsection~~[section]~~ while they are
22 entitled to receive federal pay under Title 32 of the United States Code shall
23 have all of the powers, immunities, and benefits conferred by law upon
24 persons ordered to state active duty except that they shall receive no
25 additional pay for the duty and the provisions of KRS 38.235 shall not apply
26 to them. The powers, immunities, and benefits conferred upon those persons
27 shall be in addition to, and not in place of, those powers, immunities, and

1 benefits provided under federal law.

2 (d) Any member of the National Guard may, with his consent, be ordered to state
3 active duty without pay.

4 (e) Any member of the Kentucky National Guard who is not serving without
5 pay under paragraph (d) of this subsection shall be entitled to hazardous
6 duty incentive pay when called to active duty service under Title 32 of the
7 United States Code during a state of emergency as declared by the
8 Governor. The Department of Military Affairs shall determine and
9 implement reasonable personnel pay and classification rates for hazardous
10 duty incentive pay as described in this paragraph.

11 (2) The Governor may direct the commanding officer of the military forces ordered to
12 state active duty to report to any civil officer, including, but not limited to, judge,
13 county judge/executive, mayor, sheriff, or head of law enforcement or other public
14 agency in whose jurisdiction the state active duty mission is to be performed. The
15 civil officer may advise the commanding officer regarding the specific objectives to
16 be accomplished by the military force, but the tactical direction and disposition of
17 the troops and the particular means to be employed to accomplish the mission shall
18 be left solely to the commanding officer of the National Guard.

19 (3) Troops shall not be relieved from active field service except by order of the
20 Governor.

21 (4) National Guard officers, enlisted soldiers, and airmen who are temporarily or
22 permanently disabled as a direct result of an injury or disease arising out of the
23 performance of an act in the line of duty while on state active duty shall, at the
24 discretion of the Governor, remain on paid state active duty status until a competent
25 medical authority releases them to return to their normal activities or the Governor
26 deems it appropriate to relieve the individual from state active duty status.
27 Compensation paid to the soldier or airman by the department shall be adjusted and

1 maintained at the soldier's or airman's regular rate of active duty pay; however,
 2 compensation paid by the department shall be reduced by the amount of payments
 3 received from workers' compensation insurance, Social Security benefits, and other
 4 federal or state-financed disability programs designed to supplement the soldier's or
 5 airman's income. Final compensation shall not be reduced by payments for medical
 6 care.

7 ➔Section 2. KRS 138.470 is amended to read as follows:

8 There is expressly exempted from the tax imposed by KRS 138.460:

- 9 (1) (a) Motor vehicles titled or registered to the United States, or to the
 10 Commonwealth of Kentucky or any of its political subdivisions; and
 11 (b) The gross rental or lease charges for the rental or lease of a motor vehicle paid
 12 by the United States, or the Commonwealth of Kentucky or any of its political
 13 subdivisions;
- 14 (2) Motor vehicles titled or registered to institutions of purely public charity and
 15 institutions of education not used or employed for gain by any person or
 16 corporation;
- 17 (3) Motor vehicles which have been previously titled in Kentucky on or after July 1,
 18 2005, or previously registered and titled in any state or by the federal government
 19 when being sold or transferred to licensed motor vehicle dealers for resale. The
 20 motor vehicles shall not be leased, rented, or loaned to any person and shall be held
 21 for resale only;
- 22 (4) (a) Motor vehicles sold by or transferred from dealers registered and licensed in
 23 compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080
 24 to:
 25 1. Members of the Armed Forces on duty in this Commonwealth under
 26 orders from the United States government; or
 27 2. Current members of the Kentucky National Guard or Reserve

1 *Component; or*
2 *(b) Motor vehicles brought into the Commonwealth that were sold by or*
3 *transferred from a licensed motor vehicle dealer in another state to a*
4 *member of the Armed Forces on duty in this Commonwealth under orders*
5 *from the United States government while that person was assigned to*
6 *temporary duty in that other state;*

7 (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity
8 for nine (9) persons or less, owned by nonresident owners and used primarily in
9 interstate commerce and based in a state other than Kentucky which are required to
10 be registered in Kentucky by reason of operational requirements or fleet proration
11 agreements and are registered pursuant to KRS 186.145;

12 (6) Motor vehicles titled in Kentucky on or after July 1, 2005, or previously registered
13 in Kentucky, transferred between husband and wife, parent and child, stepparent
14 and stepchild, or grandparent and grandchild;

15 (7) Motor vehicles transferred when a business changes its name and no other
16 transaction has taken place or an individual changes his or her name;

17 (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability
18 company, to a limited liability company from a corporation or proprietorship, or
19 from a corporation or limited liability company to a proprietorship, within six (6)
20 months from the time that the business is incorporated, organized, or dissolved, if
21 the transferor and the transferee are the same business entity except for a change in
22 legal form;

23 (9) Motor vehicles transferred by will, court order, or under the statutes covering
24 descent and distribution of property, if the vehicles were titled in Kentucky on or
25 after July 1, 2005, or previously registered in Kentucky;

26 (10) Motor vehicles transferred between a subsidiary corporation and its parent
27 corporation if there is no consideration, or nominal consideration, or in sole

- 1 consideration of the cancellation or surrender of stock;
- 2 (11) Motor vehicles transferred between a limited liability company and any of its
3 members, if there is no consideration, or nominal consideration, or in sole
4 consideration of the cancellation or surrender of stock;
- 5 (12) The interest of a partner in a motor vehicle when other interests are transferred to
6 him or her;
- 7 (13) Motor vehicles repossessed by a secured party who has a security interest in effect
8 at the time of repossession and a repossession affidavit as required by KRS
9 186.045(6). The reposessor shall hold the vehicle for resale only and not for
10 personal use, unless he or she has previously paid the motor vehicle usage tax on
11 the vehicle;
- 12 (14) Motor vehicles transferred to an insurance company to settle a claim. These
13 vehicles shall be junked or held for resale only;
- 14 (15) Motor carriers operating under a charter bus certificate issued by the Transportation
15 Cabinet under KRS Chapter 281;
- 16 (16) (a) 1. Motor vehicles registered under KRS 186.050 that have a declared gross
17 vehicle weight with any towed unit of forty-four thousand and one
18 (44,001) pounds or greater; and
- 19 2. Farm trucks registered under KRS 186.050(4) that have a declared gross
20 vehicle weight with any towed unit of forty-four thousand and one
21 (44,001) pounds or greater.
- 22 (b) To be eligible for the exemption established in paragraph (a) of this
23 subsection, motor vehicles shall be registered at the appropriate range for the
24 declared gross weight of the vehicle established in KRS 186.050(3)(b) and
25 shall be prohibited from registering at a higher weight range. If a motor
26 vehicle is initially registered in one (1) declared gross weight range and
27 subsequently is registered at a declared gross weight range lower than forty-

1 four thousand and one (44,001) pounds, the person registering the vehicle
2 shall be required to pay the county clerk the usage tax due on the vehicle
3 unless the person can provide written proof to the clerk that the tax has been
4 previously paid;

5 (17) Motor vehicles transferred to a trustee to be held in trust, or from a trustee to a
6 beneficiary of the trust, if a direct transfer from the grantor of the trust to all
7 individual beneficiaries of the trust would have qualified for an exemption from the
8 tax pursuant to subsection (6) or (9) of this section;

9 (18) Motor vehicles transferred to a trustee to be held in trust, if the grantor of the trust is
10 a natural person and is treated as the owner of any portion of the trust for federal
11 income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679;

12 (19) Motor vehicles transferred from a trustee of a trust to another person if:

13 (a) The grantor of the trust is a natural person and is treated as the owner of any
14 portion of the trust for federal income tax purposes under the provisions of 26
15 U.S.C. secs. 671 to 679; and

16 (b) A direct transfer from the grantor of the trust to the person would have
17 qualified for an exemption from the tax pursuant to subsection (6) or (9) of
18 this section; and

19 (20) Motor vehicles under a manufacturer's statement of origin in possession of a
20 licensed new motor vehicle dealer that are titled and transferred to a licensed used
21 motor vehicle dealer and held for sale.

22 ➔Section 3. KRS 164.5161 is amended to read as follows:

23 (1) (a) "Dependent" means an individual recognized as a dependent by a
24 uniformed service and verified in the Defense Enrollment Eligibility
25 Reporting System database.

26 (b) "Educational institution" means an in-state public or private postsecondary
27 educational institution.

- 1 (2) (a) The General Assembly of the Commonwealth of Kentucky establishes the
2 National Guard Tuition Award Program to provide members of the Kentucky
3 National Guard and the dependents of members with the opportunity to
4 attend an in-state educational institution.
- 5 (b) The tuition paid shall be up to or equal to the in-state full or part-time tuition
6 rate of the institution the member or his or her dependent attends except that
7 tuition paid in support of a member or his or her dependent attending a
8 private postsecondary educational institution shall be up to or equal to the
9 average in-state full or part-time tuition rate of a public university or
10 community college.
- 11 (c) Until the appropriation for the tuition assistance program of the Department of
12 Military Affairs is first fully funded by the General Assembly, tuition for a
13 member or his or her dependent to attend a private institution shall not be
14 paid.
- 15 (d) The tuition award program shall be established in the Kentucky Higher
16 Education Assistance Authority, and moneys shall be available for all degree
17 programs, including graduate and postgraduate degree programs offered by
18 the institutions set out in this subsection.
- 19 (3) (a) Each member of the Kentucky National Guard and the member's
20 dependents shall collectively be entitled to not more than one hundred
21 twenty (120) hours of tuition paid for by the program.
- 22 (b) The total number of credit hours available for the member and his or her
23 dependents may be transferred between the current member and their
24 dependent and used concurrently until depleted.
- 25 (4) (a) The adjutant general may grant a current member of the Kentucky National
26 Guard up to forty-five (45) paid credit hours in addition to the benefit as
27 described in subsection (3) of this section at any postsecondary institution

1 for an area of study that will have material benefits to the operations of the
2 National Guard.

3 (b) The areas of study shall be established by administrative regulations
4 promulgated under subsection (6) of this section.

5 (c) The additional hours awarded under this subsection shall not be
6 transferable.

7 (5) The Kentucky Higher Education Assistance Authority pursuant to KRS Chapter
8 13A, shall promulgate administrative regulations necessary to the financial
9 management of the tuition award program.

10 ~~(6)~~~~(4)~~ The Department of Military Affairs, pursuant to KRS Chapter 13A, shall
11 promulgate administrative regulations concerning the eligibility of members to
12 participate in the tuition award program established in this section.