

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) ***As used in this section:***

5 ***(a) "Commonwealth emergency response pay" means a monetary incentive***
6 ***paid to Kentucky National Guard members when the Kentucky National***
7 ***Guard is called to hazardous duty assignments while on state active duty***
8 ***service during a state of emergency as declared by the Governor; and***

9 ***(b) "Hazardous duty" means work performed in conditions under which a***
10 ***service member has an increased risk of serious injury, illness, or death.***

11 **(2)** Only the Governor shall have the authority to order units and members of the
12 Kentucky National Guard into state active duty.

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

- 15 1. Protecting lives and property;
- 16 2. Assisting in disaster relief or other humanitarian efforts;
- 17 3. Preventing or suppressing riot or civil disorder;
- 18 4. Enforcing the laws of the Commonwealth; or
- 19 5. Other similar purpose.

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

27 (c) Members of the National Guard who are ordered to perform duty as provided

1 in paragraph ~~[subsection (1)]~~(b) of this subsection~~[section]~~ while they are
2 entitled to receive federal pay under Title 32 of the United States Code shall
3 have all of the powers, immunities, and benefits conferred by law upon
4 persons ordered to state active duty, except that they shall receive no
5 additional pay for the duty and the provisions of KRS 38.235 shall not apply
6 to them. The powers, immunities, and benefits conferred upon those persons
7 shall be in addition to, and not in place of, those powers, immunities, and
8 benefits provided under federal law.

9 (d) Any member of the National Guard may, with his or her consent, be ordered
10 to state active duty without pay.

11 (e) Any member of the Kentucky National Guard, excluding any individual
12 serving without pay pursuant to paragraph (d) of this subsection, shall
13 receive Commonwealth emergency response pay.

14 (f) The Department of Military Affairs shall implement reasonable personnel
15 pay and classification rates for Commonwealth emergency response pay at
16 the equivalent of two (2) days of pay for every one (1) day of qualifying duty
17 performed for the initial response period of seventy-two (72) hours or
18 longer, as determined by the adjutant general.

19 ~~(3)~~~~(2)~~ The Governor may direct the commanding officer of the military forces
20 ordered to state active duty to report to any civil officer, including, but not limited
21 to, judge, county judge/executive, mayor, sheriff, or head of law enforcement or
22 other public agency in whose jurisdiction the state active duty mission is to be
23 performed. The civil officer may advise the commanding officer regarding the
24 specific objectives to be accomplished by the military force, but the tactical
25 direction and disposition of the troops and the particular means to be employed to
26 accomplish the mission shall be left solely to the commanding officer of the
27 National Guard.

1 ~~(4)~~~~(3)~~ Troops shall not be relieved from active field service except by order of the
2 Governor.

3 ~~(5)~~~~(4)~~ National Guard officers, enlisted soldiers, and airmen who are temporarily or
4 permanently disabled as a direct result of an injury or disease arising out of the
5 performance of an act in the line of duty while on state active duty shall, at the
6 discretion of the Governor, remain on paid state active duty status until a competent
7 medical authority releases them to return to their normal activities or the Governor
8 deems it appropriate to relieve the individual from state active duty status.
9 Compensation paid to the soldier or airman by the department shall be adjusted and
10 maintained at the soldier's or airman's regular rate of active duty pay; however,
11 compensation paid by the department shall be reduced by the amount of payments
12 received from workers' compensation insurance, Social Security benefits, and other
13 federal or state-financed disability programs designed to supplement the soldier's or
14 airman's income. Final compensation shall not be reduced by payments for medical
15 care.

16 ➔Section 2. KRS 38.010 is amended to read as follows:

17 As used in this chapter, unless the context requires otherwise:

- 18 (1) "Kentucky National Guard" includes the Army National Guard and Air National
19 Guard;
- 20 (2) "Active Army National Guard and active Air National Guard" includes those
21 organizations, officers, and enlisted personnel, both male and female, of the
22 federally recognized Kentucky National Guard authorized to receive federal pay,
23 arms, and equipment;
- 24 (3) "Inactive Army National Guard and inactive Air National Guard" includes those
25 organizations, officers, and enlisted personnel, both male and female, of the
26 Kentucky National Guard not entitled to receive federal pay, arms, and equipment;
- 27 (4) "State active duty" is:

- 1 (a) The ordering by the Governor of personnel or units of the Kentucky National
2 Guard to perform any duty authorized by KRS 38.030(2)~~[(1)]~~(a);
- 3 (b) Officers, warrant officers, and enlisted personnel employed under orders of
4 the Governor in making tours of inspection, mustering in or mustering out
5 troops, making surveys of military property, sitting on courts-martial,
6 summary courts, efficiency boards, courts of inquiry or boards of officers, or
7 performance of any other duty directed by the Governor or adjutant general;
- 8 (c) The participation of any unit or units of the Kentucky National Guard in
9 gunnery competition or other training or military exercise anywhere within or
10 without the United States.
- 11 (5) Words importing the masculine gender only shall extend to and be applied to
12 females as well as males.