

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, "Commonwealth emergency response pay" means a*
5 *monetary incentive paid to Kentucky National Guard members when the*
6 *Kentucky National Guard is called to state active duty service during a state of*
7 *emergency as declared by the Governor.*

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

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

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

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

24 (c) Members of the National Guard who are ordered to perform duty as provided
25 in *paragraph* *{subsection (1)}**(b)* of this *subsection**{section}* while they are
26 entitled to receive federal pay under Title 32 of the United States Code shall
27 have all of the powers, immunities, and benefits conferred by law upon

1 persons ordered to state active duty, except that they shall receive no
2 additional pay for the duty and the provisions of KRS 38.235 shall not apply
3 to them. The powers, immunities, and benefits conferred upon those persons
4 shall be in addition to, and not in place of, those powers, immunities, and
5 benefits provided under federal law.

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

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

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

16 (3){(2)} The Governor may direct the commanding officer of the military forces
17 ordered to state active duty to report to any civil officer, including, but not limited
18 to, judge, county judge/executive, mayor, sheriff, or head of law enforcement or
19 other public agency in whose jurisdiction the state active duty mission is to be
20 performed. The civil officer may advise the commanding officer regarding the
21 specific objectives to be accomplished by the military force, but the tactical
22 direction and disposition of the troops and the particular means to be employed to
23 accomplish the mission shall be left solely to the commanding officer of the
24 National Guard.

25 (4){(3)} Troops shall not be relieved from active field service except by order of the
26 Governor.

27 (5){(4)} National Guard officers, enlisted soldiers, and airmen who are temporarily or

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

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

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

15 (1) "Kentucky National Guard" includes the Army National Guard and Air National
16 Guard;

17 (2) "Active Army National Guard and active Air National Guard" includes those
18 organizations, officers, and enlisted personnel, both male and female, of the
19 federally recognized Kentucky National Guard authorized to receive federal pay,
20 arms, and equipment;

21 (3) "Inactive Army National Guard and inactive Air National Guard" includes those
22 organizations, officers, and enlisted personnel, both male and female, of the
23 Kentucky National Guard not entitled to receive federal pay, arms, and equipment;

24 (4) "State active duty" is:

25 (a) The ordering by the Governor of personnel or units of the Kentucky National
26 Guard to perform any duty authorized by KRS 38.030(2)(1)(a);

27 (b) Officers, warrant officers, and enlisted personnel employed under orders of

1 the Governor in making tours of inspection, mustering in or mustering out
2 troops, making surveys of military property, sitting on courts-martial,
3 summary courts, efficiency boards, courts of inquiry or boards of officers, or
4 performance of any other duty directed by the Governor or adjutant general;

5 (c) The participation of any unit or units of the Kentucky National Guard in
6 gunnery competition or other training or military exercise anywhere within or
7 without the United States.

8 (5) Words importing the masculine gender only shall extend to and be applied to
9 females as well as males.