

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2420
(Senator Cook)
(Approved by the Delayed Bills Committee)

AN ACT to amend and reenact sections 37-01-01, 37-02-01, 37-02-02, and 37-08-01 of the North Dakota Century Code, relating to the militia.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-01 of the North Dakota Century Code is amended and reenacted as follows:

37-01-01. Definitions. In this title, unless the context or ~~subject matter~~ otherwise requires:

1. "Active militia" ~~consists of~~ means the organized and uniformed military forces of this state, ~~which must be known as the "North Dakota national guard" and the reserve militia when called to active service.~~
2. "Active service" means ~~service on behalf of the state~~ active duty in case of public disaster, riot, tumult, breach of the peace, resistance of process, or the threat thereof, whenever called in aid of civil authorities, or under martial law, or at encampments, whether ordered by state or federal authorities, and includes the performance of any other duty requiring the entire time of the organization or person, except when called or drafted into the federal service by the president of the United States. ~~Such~~ The term includes service in case of, or to prevent, insurrection, riot, or invasion under the order of the commander in chief communicated through proper military channels.
3. "~~Battalion~~" includes a "~~squadron~~" of cavalry, and of the air service as well as a battalion of infantry, artillery, engineers, and signal corps.
4. "~~Company~~" includes a company of infantry, engineers, and signal corps, an air unit, a battery of field artillery, a troop of cavalry, or any similar organization in any branch of the military service authorized by federal law for this state, including a permanent detachment.
5. "Defense department" includes the department of army and the department of air force.
6. "~~In service of the United States~~" and "~~not in the service of the United States~~" have the same meaning as such terms have as used in the National Defense Act [Pub. L. 64-85; 39 Stat. 166], approved June 3, 1916, and in amendments thereto.
7. "~~Militia~~" means the forces provided for in the Constitution of North Dakota, and is divided into two classes designated as the active militia and the reserve militia.
8. "Military forces of this state" ~~consists of~~ means those persons subject to military duty individuals in the active militia as defined in the Constitution of North Dakota and those persons subject to duty in the national guard as defined in the National Defense Act of the United States of America.
4. "Militia" means a group of individuals defined in the Constitution of North Dakota.
9. 5. "National guard" means that part of the military ~~force~~ forces of this state which is organized, equipped, and federally recognized under the provisions of the National Defense Act, as amended, of the United States as the "national guard, air national guard,

of the United States and the state of North Dakota". ~~‡~~ The term includes also the term "national guard of the state of North Dakota".

- ~~10.~~ 6. "On duty" includes periods of drill and of such other training and service as may be required under state or federal law, regulation, or order.
- ~~11.~~ 7. "Reserve militia" consists of all those ~~persons~~ individuals who are subject to service in the active militia, ~~but~~ and who are not serving in the national guard of this state.
8. "State active duty" means active service on behalf of the state under authority of the governor at the expense of the state.
9. "State defense force" means the group of individuals in the reserve militia in state active duty under chapter 37-12.1.

SECTION 2. AMENDMENT. Section 37-02-01 of the North Dakota Century Code is amended and reenacted as follows:

37-02-01. Militia - How constituted - Exceptions. All able-bodied male citizens; and all able-bodied ~~persons~~ males of foreign birth who have declared ~~their~~ an intention to become citizens, who are ~~more than~~ between the ages of eighteen; and ~~less than~~ forty-five; years ~~of age;~~ and who are residents of this state, and other volunteers allowed by law constitute the militia; unless exempted by the laws of the United States; or by the laws of this state.

SECTION 3. AMENDMENT. Section 37-02-02 of the North Dakota Century Code is amended and reenacted as follows:

37-02-02. North Dakota national guard - Composition. The North Dakota national guard consists of ~~the~~ regularly enlisted and enrolled ~~male citizens;~~ members within the age limits prescribed by ~~the National Defense Act of 1920, as it may be amended~~ federal law; organized, armed, and equipped as provided in this title, and of commissioned officers within the ages conforming to the rules and regulations promulgated by the department of the army and department of the air force as conditions precedent to federal recognition. ~~The governor may authorize the appointment or enlistment of female citizens of the state in the medical corps, nurses corps, and other noncombatant branches and service of the national guard, and while so serving, they have the same status as male members of the national guard. Such national guard must be composed of such units as the defense department of the United States may allocate and designate, with the approval of the governor of this state.~~

SECTION 4. AMENDMENT. Section 37-08-01 of the North Dakota Century Code is amended and reenacted as follows:

37-08-01. National guard reserve - Organization. The national guard reserve is all individuals who are subject to service in the national guard and are not serving in the national guard of this state. Subject to ~~such~~ the rules and regulations ~~as of the president may prescribe,~~ a national guard reserve must be maintained in this state which ~~shall consist~~ consists of ~~such~~ organizations, officers, and enlisted ~~men~~ members as the president may prescribe, ~~or and~~ members thereof of the reserve may be assigned as reserves to an active organization of the national guard.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2420.

Senate Vote: Yeas 44 Nays 0 Absent 3

House Vote: Yeas 89 Nays 0 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State