

Article 5.

State Defense Militia.

**§ 127A-80. Authority to organize and maintain North Carolina State Defense Militia.**

(a) The Governor is authorized to organize any part of the unorganized militia as a State force for discipline and training, into companies, battalions, regiments, brigades or similar organizations, as deemed necessary for the defense of the State; to maintain, uniform and equip this military force within the appropriations available; to exercise discipline in the same manner as is now or may hereafter be provided by the laws of the State for the North Carolina National Guard. The military force shall be subject to the call or the order of the Governor to execute the law and secure the safety of persons and property, suppress riots or insurrections, repel invasions or provide disaster relief, as may now or hereafter be provided by law for the North Carolina National Guard or for the State militia.

(b) The military force shall be designated as the "North Carolina State Defense Militia" and shall be composed of personnel of the unorganized militia as may volunteer for service therein or be drafted as provided by law. To be eligible for service in an enlisted status, a person must be at least 17 years of age. To be eligible for service as an officer, a person must be at least 18 years of age. The force and its personnel shall be additional to and distinct from the North Carolina National Guard organized under existing law. A person may not become a member of the defense militia established under this section, if a member of a reserve component of the Armed Forces of the United States.

(c) The Governor is hereby authorized: to prescribe rules and regulations governing the appointment of officers, the enlistment of other personnel, the organization, administration, equipment, discipline and discharge of the personnel of the military force; to requisition from the Secretary of Defense arms and equipment that are in possession of and can be spared by the Department of Defense; and to furnish the facilities of available armories, equipment, State premises and property, for the purpose of drill and instruction.

(d) The force shall not be called, ordered, or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of membership therein, be exempt from military service under any federal law.

(e) The Governor is hereby authorized to transfer to the benefit of the State defense militia any available and unexpended funds which the Governor finds necessary for its use from any appropriations to the North Carolina National Guard by the General Assembly, and for the same purpose to allot monies from the Contingency and Emergency Fund with the concurrence of the Council of State. Upon disbandment of the State defense militia any monies or balance to the credit of any unit of this organization shall be paid into the State treasury for the benefit of the North Carolina National Guard, and all property, clothing, and equipment belonging to the State shall be transferred to the account of the North Carolina National Guard for disposition in accordance with the best interests of the State and as deemed advisable by the Governor. Upon disbandment of any unit of the State defense militia prior to the disbandment of the entire organization, the Governor is authorized to direct the transfer of any State property or balance of funds of the disbanded unit to any other unit, including any new unit or units organized to fill vacancies, or otherwise, as the Governor may direct.

(f) The State defense militia shall be subject to the military laws of the State not inconsistent with or contrary to the provisions contained in this Article with the following exceptions:

The provisions of G.S. 127A-117, 127A-118, and 127A-139 as amended, shall not be applicable to the personnel and units of the State defense militia.

(g) There shall be allowed annually to each unit or company of the State defense militia the funds necessary for armory rent, heat, light, stationery, printing, and other expenses.

(h) All payments are to be made by the Secretary of Public Safety in accordance with State laws in semiannual installments on the first day of July and the first day of January of each year, but no payment shall be made unless all assemblies and duties required by law are duly performed by all organizations named.

(i) The commander of each organization participating in the appropriation herein named shall render an itemized statement of all funds received from any source whatsoever for the support of the organization in the manner and on the forms prescribed by the Secretary of Public Safety. Failure on the part of any commander to submit promptly when due the financial statement of the organization will be sufficient cause to withhold all appropriations for the organization. (1941, c. 43; 1943, c. 166; 1945, c. 209, s. 1; c. 835; 1957, c. 1083; 1963, c. 1016, s. 1; 1975, c. 604, s. 2; 1977, c. 70, s. 2; c. 553; 1983, c. 314, ss. 2, 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

#### **§ 127A-81. State defense militia cadre.**

(a) The Governor is authorized: to organize and regulate part of the unorganized militia as a State defense militia cadre in units or commands which the Governor may deem necessary to provide a cadre for an active State defense militia; to prescribe regulations for the maintenance of the property and equipment of the cadre, for the exercise of its discipline, and for its training and duties.

(b) The cadre shall be designated the "North Carolina State Defense Militia Cadre" and shall be composed of a force of officers and enlisted personnel raised by appointment of the Governor, or otherwise, as may be provided by law. The Secretary of Public Safety may reimburse cadre members for expenses actually incurred, not to exceed the amount appropriated and authorized for the purpose by the General Assembly.

(c) The Governor's authority under this Article shall not be subject to regulations prescribed by the Secretary of Defense. Age and membership requirements for the State defense militia generally, as set forth in G.S. 127A-80, shall apply. The training of the cadre need not be in accordance with training regulations issued by the Department of Defense. The provisions of G.S. 127A-80(c), (d), (g), (h) and (i) shall also apply to cadres.

(d) The total authorized strength of the cadre, its authorized officer and enlisted strength, the composition of each of its units or commands, and the allocation of cadre units or commands among the counties, cities, and towns of the State, shall be as prescribed by the Governor in suitable regulations enforced through the Adjutant General, or as otherwise provided by law.

(e) The duties of the State defense militia cadre shall be as ordered and directed by the Governor from time to time, or in regulations, and may include authority to take charge of armories and other military installations and real properties used by the North Carolina National Guard, together with any other property that the regulations may provide, when and if the North Carolina National Guard, or any part thereof, is inducted into the service of the United States, or, for any extended period of time, is absent on any duty from its home station. In addition, the cadre shall have duties appropriate to the organization, maintenance, and training of a military cadre to act as a nucleus for the organization of an active State defense militia whenever the necessity may arise.

(1963, c. 1016, s. 1; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1983, c. 314, s. 4; 1991 (Reg. Sess., 1992), c. 1030, s. 35; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

**§§ 127A-82 through 127A-86. Reserved for future codification purposes.**