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No. 57

H.P. 21

House of Representatives, January 8, 2025

An Act to Enable Maine National Guard Commanders to More Efficiently Effect Disciplinary Measures Through the Maine Code of Military Justice

Submitted by the Department of Defense, Veterans and Emergency Management pursuant to Joint Rule 204.

Received by the Clerk of the House on January 6, 2025. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FREDETTE of Newport.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 4 MRSA §807, sub-§3, ¶T**, as amended by PL 2019, c. 597, §2, is further
3 amended to read:

4 T. A marine patrol officer who is not an attorney but is representing the Department
5 of Marine Resources in a libel proceeding before a District Court under Title 12, section
6 6207; ~~or~~

7 **Sec. 2. 4 MRSA §807, sub-§3, ¶U**, as enacted by PL 2019, c. 597, §3, is amended
8 to read:

9 U. Practice, pursuant to a rule of the Supreme Judicial Court, by a law student enrolled
10 in a law school accredited by the American Bar Association; or

11 **Sec. 3. 4 MRSA §807, sub-§3, ¶V** is enacted to read:

12 V. An attorney certified by the judge advocate general of that attorney's respective
13 military branch representing Maine National Guard members in proceedings conducted
14 pursuant to Title 37-B, section 415-A.

15 **Sec. 4. 37-B MRSA §102**, as amended by PL 2017, c. 108, §2, is further amended
16 to read:

17 **§102. Composition**

18 **1. State military forces.** The state military forces ~~shall consist~~ consist of:

19 A. The Maine Army National Guard and the Maine Air National Guard, referred to in
20 this Title as the "National Guard," ~~when either or both are not in federal service~~ and
21 state military forces provided under section 3, subsection 1, paragraph D, subparagraph
22 (22), but not the Maine Military Authority; and

23 B. The militia, the naval militia and the Maine State Guard when and if organized by
24 direction of the Governor pursuant to the authority set forth in subchapter ~~IV~~ 4.

25 **Sec. 5. 37-B MRSA §148**, as enacted by PL 1983, c. 460, §3, is amended to read:

26 **§148. Discharge of enlisted persons and termination of officer appointments**

27 An enlisted person discharged from the state military forces ~~shall~~ must receive a
28 discharge in the form and with the classification prescribed for the federal military
29 establishment. Discharges may be given prior to the expiration of periods of enlistment
30 under these regulations, not inconsistent with those established by the national military
31 establishment for the government of the National Guard, ~~as the Governor may prescribe~~
32 pursuant to rules adopted by the Adjutant General.

33 An officer discharged from the state military forces must receive a discharge in the
34 form and with the classification prescribed for the federal military establishment. An
35 officer's state appointment may be terminated prior to the expiration of periods of military
36 obligation pursuant to rules adopted by the Adjutant General. Rules adopted pursuant to
37 this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

38 **Sec. 6. 37-B MRSA §403, sub-§1**, as amended by PL 2001, c. 662, §42, is further
39 amended to read:

1 **1. Active member.** All members of the state military forces are subject to the Maine
2 Code of Military Justice at all times ~~except when in federal service pursuant to United~~
3 ~~States Code, Title 10.~~

4 A. This code applies to members of the state military forces serving out-of-state and
5 while going to and returning from service out-of-state to the same extent as a person
6 serving within the State.

7 B. Offenses committed outside the State may be tried and punished either inside or
8 outside the State subject to section 418.

9 **Sec. 7. 37-B MRSA §415-A, sub-§1, ¶A,** as enacted by PL 2001, c. 662, §48, is
10 amended to read:

11 A. A ~~company grade officer~~ commander with the rank of captain or ~~warrant officer~~
12 ~~commander below~~ may impose one or more of the following punishments:

- 13 (1) Forfeiture of up to one day's pay;
- 14 (2) Up to 4 hours of extra duties; ~~or~~
- 15 (3) Prohibition of promotion of up to one year; or
- 16 (4) Reduction of one grade for enlisted members in pay grade E-4 and below.

17 **Sec. 8. 37-B MRSA §415-A, sub-§1, ¶B,** as enacted by PL 2001, c. 662, §48, is
18 amended to read:

19 B. A ~~field grade officer~~ commander with the rank of major may impose one or more
20 of the following punishments:

- 21 (1) Forfeiture of up to 3 days' pay;
- 22 (2) Up to 8 hours of extra duties; ~~or~~
- 23 (3) Prohibition of promotion of up to one year; or
- 24 (4) Reduction of one grade for enlisted members in pay grade E-6 and below.

25 **Sec. 9. 37-B MRSA §415-A, sub-§1, ¶C,** as amended by PL 2013, c. 251, §5, is
26 further amended to read:

27 C. ~~An officer with~~ A commander with the rank of lieutenant colonel ~~in the chain of~~
28 ~~command of an individual being considered for nonjudicial punishment and above~~ may
29 impose one or more of the following punishments:

- 30 (1) Forfeiture of up to 5 days' pay;
- 31 (2) Up to 16 hours of extra duties;
- 32 (3) Prohibition of promotion of up to one year; or
- 33 (4) Reduction of one grade for enlisted members.

34 **Sec. 10. 37-B MRSA §460,** as enacted by PL 2009, c. 406, §7, is amended to read:

35 **§460. Behavior Conduct that is prejudicial to good order and discipline of military**
36 **forces or that discredits is of a nature to discredit military forces**

1 Any person subject to this Code who ~~behaves in a manner~~ engages in conduct that is
2 prejudicial to the good order and discipline of the military forces or that ~~discredits~~ is of a
3 nature to discredit the military forces must be punished as a court-martial may direct.

4 **Sec. 11. 37-B MRSA §462**, as enacted by PL 2019, c. 341, §15, is amended to read:

5 **§462. Operating under the influence and driving to endanger**

6 **1. Prohibition; operating under the influence and driving to endanger.** Any
7 person subject to this Code who commits an offense prohibited under Title 29-A, section
8 2411 or 2413 is guilty of that offense under this Code.

9 **2. Punishment.** Any person subject to this Code who is found guilty of an offense
10 prohibited under Title 29-A, section 2411 or 2413 may be punished as a court-martial may
11 direct.

12 **SUMMARY**

13 This bill makes several changes that enable Maine National Guard commanders to
14 more efficiently effect disciplinary measures through the Maine Code of Military Justice.