

1 A bill to be entitled

2 An act relating to the Florida State Guard; amending
3 s. 120.80, F.S.; providing that certain functions of
4 the Florida State Guard are not rules as defined by
5 ch. 120, F.S.; amending s. 250.44, F.S.; prohibiting
6 certain actions regarding clothing, arms, military
7 outfits, and property of the Florida State Guard;
8 requiring certain information to be reported to the
9 director of the Division of the State Guard within the
10 Department of Military Affairs; providing a penalty;
11 amending s. 251.001, F.S.; providing a short title;
12 providing the scope of chapter 251, F.S.; revising
13 provisions relating to the creation and authorization
14 of the Florida State Guard; providing the authorized
15 maximum number of volunteer personnel of the Florida
16 State Guard; creating the Division of the State Guard
17 within the Department of Military Affairs; providing
18 that the head of the division is a director appointed
19 by and serving at the pleasure of the Governor;
20 providing eligibility requirements for the director;
21 providing that the division is a separate budget
22 entity; requiring the department to provide
23 administrative support to the division; providing
24 division responsibilities; authorizing the director to
25 establish a services structure for certain purposes;

26 | revising and providing definitions; removing
 27 | provisions establishing authority of the department
 28 | and the Adjutant General with respect to the Florida
 29 | State Guard; providing additional duties of the
 30 | division and director; revising qualifications for
 31 | applicants to the Florida State Guard; requiring the
 32 | director to organize and establish a specialized unit
 33 | within the Florida State Guard; providing criteria and
 34 | authority for members of the specialized unit;
 35 | revising the criteria for activation of the Florida
 36 | State Guard; requiring the division to reimburse
 37 | members for per diem and travel expenses; authorizing
 38 | other compensation subject to appropriation; requiring
 39 | the director to adopt rules; conforming provisions to
 40 | changes made by the act; repealing ss. 251.01, 251.02,
 41 | 251.03, 251.04, 251.05, 251.06, 251.07, 251.08,
 42 | 251.09, 251.10, 251.11, 251.12, 251.13, 251.14,
 43 | 251.15, 251.16, and 251.17, F.S., relating to the
 44 | Florida State Defense Force; amending s. 790.25, F.S.;
 45 | conforming provisions to changes made by the act;
 46 | providing an effective date.

47 |

48 | Be It Enacted by the Legislature of the State of Florida:

49 |

50 | Section 1. Subsection (20) is added to section 120.80,

51 Florida Statutes, to read:

52 120.80 Exceptions and special requirements; agencies.—

53 (20) FLORIDA STATE GUARD.—Notwithstanding s. 120.52(16),

54 the enlistment, organization, administration, equipment,

55 maintenance, training, and discipline of the Florida State Guard

56 are not rules as defined by this chapter.

57 Section 2. Subsection (3) of section 250.44, Florida

58 Statutes, is amended to read:

59 250.44 Military equipment regulations; penalties.—

60 (3) The clothing, arms, military outfits, and property

61 furnished by or through the state to any member of the militia

62 or the Florida State Guard, may not be sold, bartered, loaned,

63 exchanged, pledged, or given away. A person who is not a member

64 of the military forces of this state or the United States, or an

65 authorized agent of this state or the United States, who

66 possesses clothing, arms, military outfits, or property that is

67 unlawfully disposed of has no right, title, or interest therein,

68 and the clothing, arms, military outfits, or property shall be

69 seized and taken wherever found by any civil or military officer

70 of the state and delivered to any commanding officer or other

71 authorized officer, who must:

72 (a) If such clothing, arms, military outfits, or property

73 were issued by or are property of the militia, make an immediate

74 report to the Adjutant General.

75 (b) If such clothing, arms, military outfits, or property

76 were issued by or are property of the Florida State Guard, make
 77 an immediate report to the director of the Division of the State
 78 Guard within the Department of Military Affairs.

79
 80 The possession of any such clothing, arms, military outfits, or
 81 property by any person not a member of the military forces of
 82 this state, or any other state, or of the United States, is
 83 presumptive evidence of such sale, barter, loan, exchange,
 84 pledge, or gift and is punishable as provided in chapter 812.

85 Section 3. Section 251.001, Florida Statutes, is amended
 86 to read:

87 251.001 Florida State Guard Act.—

88 (1) SHORT TITLE AND SCOPE.—This chapter may be cited as
 89 the "Florida State Guard Act." This chapter shall be
 90 supplemental to provisions relating to the organized militia in
 91 chapter 250 other than the Florida National Guard.

92 (2)~~(1)~~ CREATION AND AUTHORIZATION.—The Florida State Guard
 93 is created to protect and defend the people of Florida from all
 94 threats to public safety and to augment all existing state and
 95 local agencies. The Florida State Guard is created as authorized
 96 under federal law for use exclusively within the state,
 97 activated only by the Governor ~~under the specific limitations~~
 98 ~~created by this section~~, and is at all times under the final
 99 command and control of the Governor as commander in chief of all
 100 military and guard forces of the state. The Florida State Guard

101 ~~is created and authorized as a component of the organized guard~~
 102 ~~separate and apart from the Florida National Guard and shall be~~
 103 ~~used exclusively within the state, or to provide support to~~
 104 ~~other states,~~ for the purposes stated in this section and may
 105 not be called, ordered, or drafted into the armed forces of the
 106 United States. The authorized maximum number of volunteer
 107 personnel that may be commissioned, enrolled, or employed as
 108 members of the Florida State Guard is 1,500 ~~400~~.

109 (3) DIVISION OF THE STATE GUARD.—The Division of the State
 110 Guard is created within the Department of Military Affairs and
 111 shall be headed by a director who shall be appointed by and
 112 serve at the pleasure of the Governor, subject to confirmation
 113 by the Senate. The director must have served at least 5 years as
 114 a servicemember of the United States Armed Forces, United States
 115 Reserve Forces, or Florida National Guard. The division shall be
 116 a separate budget entity, and the director shall be its agency
 117 head for all purposes. The Department of Military Affairs shall
 118 provide administrative support and service to the division to
 119 the extent requested by the director. The division shall not be
 120 subject to control, supervision, or direction by the Department
 121 of Military Affairs in any manner, including, but not limited
 122 to, personnel, purchasing, transactions involving real or
 123 personal property, and budgetary matters. The division is
 124 responsible for the organization, recruitment, training,
 125 equipping, management, and functions of the Florida State Guard.

126 The director may establish a command, operational, and
 127 administrative services structure to assist, manage, and support
 128 the Florida State Guard in operating the program and delivering
 129 services.

130 (4)-(2) DEFINITIONS.—As used in this section:

131 (a) The terms "active duty," "armed forces," and "enlisted
 132 personnel," "National Guard," and ~~"rank"~~ have the same meanings
 133 as in s. 250.01.

134 (b) The term "department" means the Department of Military
 135 Affairs.

136 (c) The term "director" means the director of the Division
 137 of the State Guard.

138 (d) The term "division" means the Division of the State
 139 Guard within the Department of Military Affairs.

140 ~~(c) The term "officer" means an officer commissioned by~~
 141 ~~the Governor.~~

142 ~~(d) The term "organized guard" means an organized military~~
 143 ~~force that is authorized by law.~~

144 ~~(e) The term "warrant officer" means a technical~~
 145 ~~specialist commissioned as a warrant officer by the Governor.~~

146 ~~(3) ADJUTANT GENERAL.—The Adjutant General is the~~
 147 ~~commanding general of the Florida State Guard subject at all~~
 148 ~~times to the Governor as commander in chief. The Adjutant~~
 149 ~~General is responsible for organizing, recruiting, training,~~
 150 ~~equipping, managing, and disciplining the Florida State Guard,~~

151 ~~including selecting units for activation by the Governor,~~
 152 ~~selecting candidates for commissioning by the Governor, and~~
 153 ~~approving applicants as enlisted personnel.~~

154 (5)~~(4)~~ PERSONNEL.—

155 (a) Subject to approval by the Governor, the director
 156 ~~Adjutant General~~ shall determine the number of volunteer
 157 ~~officers, warrant officers, and enlisted~~ personnel necessary to
 158 meet the staffing and operational requirements of the Florida
 159 State Guard, and determine the volunteer structure ~~specific~~
 160 ~~ranks~~ and number of volunteer personnel within each component
 161 unit of such structure ~~rank~~.

162 (b) The Governor shall commission all volunteer personnel
 163 ~~officers and warrant officers~~ of the Florida State Guard.

164 (c) Each applicant for the Florida State Guard shall meet
 165 the following qualifications:

166 1. The applicant must ~~shall~~ be a citizen of the United
 167 States and a resident of the state.

168 2. The applicant may not ~~cannot~~ have a felony conviction.
 169 Each applicant shall submit a complete set of fingerprints and
 170 all information required by state and federal law to process
 171 fingerprints for purposes of conducting a criminal background
 172 check.

173 3. The applicant may not be an active duty servicemember,
 174 a member of the armed forces reserves, or a member of the
 175 Florida National Guard.

176 4. If the applicant is a former member of the armed forces
177 or of any military or naval organization of this state or
178 another state, the applicant must have been separated under
179 terms no less than a general discharge under honorable
180 conditions.

181 (d) The director ~~Adjutant General~~ shall establish minimum
182 standards for the age, physical and health condition, and
183 physical fitness of applicants based upon the component unit of
184 the Florida State Guard structure in which the applicant is
185 being considered for placement. However, an applicant being
186 considered for placement in a component unit that serves in an
187 active duty capacity within the Florida State Guard must be
188 subject to standards that ~~which~~ are no less than the standards
189 required for recruitment, enrollment, and retention in the
190 Florida National Guard.

191 (e) The director ~~Adjutant General~~ shall develop and
192 implement a code of regulations for the administration and
193 discipline of members of the Florida State Guard that shall
194 provide no less protection and impose no more severe sanctions
195 than as provided in s. 250.35, except that the director ~~Adjutant~~
196 ~~General~~ shall not have ~~no~~ authority to impose any term of
197 incarceration.

198 (6) SPECIALIZED UNIT.—The director shall organize a
199 specialized unit within the Florida State Guard. All members of
200 the specialized unit are vested with the authority to bear arms,

201 detect, and apprehend while activated. In addition to the
 202 requirements set forth in paragraph (5)(c), only those members
 203 of the specialized unit who meet the requirements in s. 943.13
 204 and are certified as law enforcement officers as defined in s.
 205 943.10(1) are authorized to have the same law enforcement
 206 authority as the law enforcement agency in conjunction with
 207 which they are working when activated.

208 (7)-(5) TRAINING AND EQUIPMENT.—The director ~~Adjutant~~
 209 ~~General~~ shall develop and implement a program for training for
 210 members of the Florida State Guard.

211 (a) All training programs for the Florida State Guard
 212 shall be at least equivalent to the training requirements for
 213 members of the Florida National Guard under applicable federal
 214 law at the time the training is conducted. As required by the
 215 director ~~Adjutant General~~, all members of the Florida State
 216 Guard shall complete initial training within 180 days after
 217 their appointment or enrollment and periodic ongoing training.

218 (b) The director ~~Adjutant General~~ may provide for staff to
 219 prepare and conduct training required in this section. The staff
 220 may include members of the Florida National Guard whose duty
 221 assignments may include conducting training under this section
 222 but who may not be considered members of the Florida State
 223 Guard.

224 (c) The division ~~Adjutant General~~ shall provide all
 225 equipment necessary for the training and service of members of

226 | the Florida State Guard and shall arrange and contract for the
 227 | use of sufficient and adequate facilities for training,
 228 | organizing, and all other purposes of the Florida State Guard.
 229 | Section 250.44 applies ~~The provisions of s. 250.44 apply~~ to the
 230 | allocation, delegation, use of, and accounting for all equipment
 231 | furnished under this section.

232 | ~~(d) The Adjutant General may make available for training~~
 233 | ~~and other purposes under this section the facilities controlled~~
 234 | ~~and operated by the department.~~

235 | (8)(6) ACTIVATION AND DEACTIVATION OF THE FLORIDA STATE
 236 | GUARD.-

237 | (a) The Florida State Guard, by component units or in
 238 | total, may be activated by order of the Governor:

239 | 1. During any period when any part of the Florida National
 240 | Guard is in active federal service and the Governor has declared
 241 | a state of emergency; ~~The Florida State Guard may be activated~~
 242 | ~~as part of an emergency order issued by the Governor or in a~~
 243 | ~~separate executive order issued during a declared state of~~
 244 | ~~emergency.~~

245 | 2.(b) ~~The Florida State Guard may be activated only~~ To
 246 | preserve the public peace, execute the laws of the state,
 247 | enhance domestic security, respond to terrorist threats or
 248 | attacks, protect and defend the people of Florida from threats
 249 | to public safety, respond to an emergency as defined in s.
 250 | 252.34 or imminent danger thereof, or respond to any need for

251 emergency aid to civil authorities as specified in s. 252.38;

252 3. To augment any existing state or local agency; or

253 4. To provide support to other states under the Emergency
 254 Management Assistance Compact as provided for in part III of
 255 chapter 252.

256 (b)(e) The Florida State Guard shall be deactivated by the
 257 expiration of the order of activation or by a separate order by
 258 the Governor deactivating the Florida State Guard.

259 (9)(7) REIMBURSEMENT AND COMPENSATION.—

260 (a) The division shall ~~department may~~ reimburse members of
 261 the Florida State Guard for per diem and travel expenses
 262 incurred to attend required training or in the course of active
 263 service as provided in s. 112.061.

264 (b) Members of the Florida State Guard may be compensated
 265 for time spent training or in the course of active service at
 266 rates established by the director, subject to appropriation
 267 ~~Adjutant General.~~

268 (c) A ~~No~~ member of the Florida State Guard may not make
 269 any purchase or enter into any contract or agreement for
 270 purchases or services as a charge against the state without the
 271 authority of the director ~~Adjutant General.~~

272 (10)(8) EMPLOYMENT PROTECTION, SUSPENSION OF PROCEEDINGS,
 273 LIABILITY, AND WORKERS' COMPENSATION.—

274 (a) The protections for members of the Florida National
 275 Guard provided in ss. 250.48-250.483 and 250.5201-250.5205 ~~shall~~

276 apply to each member of the Florida State Guard engaged in
 277 required training or active service.

278 (b) Members of the Florida State Guard ordered into active
 279 service or engaged in required training are not liable for any
 280 lawful act done in performance of their duties under this
 281 section while acting in good faith within the scope of those
 282 duties.

283 (c) While activated or in training, members of the Florida
 284 State Guard are considered volunteers for the state, as defined
 285 in s. 440.02(15)(d)6., and are entitled to workers' compensation
 286 protections pursuant to chapter 440.

287 ~~(11)(9)~~ RULEMAKING AUTHORITY.—The director ~~Adjutant~~
 288 ~~General~~, as head of the division ~~department~~, shall adopt rules
 289 to implement ~~the provisions of~~ this section.

290 ~~(10)~~ APPROPRIATION.—~~This section is subject to an~~
 291 ~~appropriation in the General Appropriations Act.~~

292 ~~(11)~~ EXPIRATION.—~~This section expires July 1, 2023.~~

293 Section 4. Sections 251.01, 251.02, 251.03, 251.04,
 294 251.05, 251.06, 251.07, 251.08, 251.09, 251.10, 251.11, 251.12,
 295 251.13, 251.14, 251.15, 251.16, and 251.17, Florida Statutes,
 296 are repealed.

297 Section 5. Paragraph (a) of subsection (3) of section
 298 790.25, Florida Statutes, is amended to read:

299 790.25 Lawful ownership, possession, and use of firearms
 300 and other weapons.—

301 (3) LAWFUL USES.—The provisions of ss. 790.053 and 790.06
302 do not apply in the following instances, and, despite such
303 sections, it is lawful for the following persons to own,
304 possess, and lawfully use firearms and other weapons,
305 ammunition, and supplies for lawful purposes:

306 (a) Members of the Militia, National Guard, Florida State
307 Guard ~~Defense Force~~, Army, Navy, Air Force, Marine Corps, Space
308 Force, Coast Guard, organized reserves, and other armed forces
309 of the state and of the United States, when on duty, when
310 training or preparing themselves for military duty, or while
311 subject to recall or mobilization;

312 Section 6. This act shall take effect July 1, 2023.