

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; revising the authorized
15 maximum number of personnel of the Florida State
16 Guard; creating the Division of the State Guard within
17 the Department of Military Affairs; providing that the
18 head of the division is a director appointed by and
19 serving at the pleasure of the Governor; providing
20 eligibility requirements for the director; providing
21 that the division is a separate budget entity;
22 requiring the department to provide administrative
23 support to the division; providing division
24 responsibilities; defining the terms "director" and
25 "division"; deleting provisions establishing authority

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

45

46 Be It Enacted by the Legislature of the State of Florida:

47

48 Section 1. Subsection (20) is added to section 120.80,
 49 Florida Statutes, to read:

50 120.80 Exceptions and special requirements; agencies.—

51 (20) FLORIDA STATE GUARD.—Notwithstanding s. 120.52(16),
 52 the enlistment, organization, administration, equipment,
 53 maintenance, training, and discipline of the Florida State Guard
 54 are not rules as defined by this chapter.

55 Section 2. Subsection (3) of section 250.44, Florida
 56 Statutes, is amended to read:

57 250.44 Military equipment regulations; penalties.—

58 (3) The clothing, arms, military outfits, and property
 59 furnished by or through the state to any member of the militia
 60 or the Florida State Guard, may not be sold, bartered, loaned,
 61 exchanged, pledged, or given away. A person who is not a member
 62 of the military forces of this state or the United States, or an
 63 authorized agent of this state or the United States, who
 64 possesses clothing, arms, military outfits, or property that is
 65 unlawfully disposed of has no right, title, or interest therein,
 66 and the clothing, arms, military outfits, or property shall be
 67 seized and taken wherever found by any civil or military officer
 68 of the state and delivered to any commanding officer or other
 69 authorized officer, who must:

70 (a) If such clothing, arms, military outfits, or property
 71 were issued by or are property of the militia, make an immediate
 72 report to the Adjutant General.

73 (b) If such clothing, arms, military outfits, or property
 74 were issued by or are property of the Florida State Guard, make
 75 an immediate report to the director of the Division of the State

76 Guard within the Department of Military Affairs.

77
 78 The possession of any such clothing, arms, military outfits, or
 79 property by any person not a member of the military forces of
 80 this state, or any other state, or of the United States, is
 81 presumptive evidence of such sale, barter, loan, exchange,
 82 pledge, or gift and is punishable as provided in chapter 812.

83 Section 3. Section 251.001, Florida Statutes, is amended
 84 to read:

85 251.001 Florida State Guard Act.—

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

90 (2)(1) CREATION AND AUTHORIZATION.—The Florida State Guard
 91 is created to protect and defend the people of Florida from all
 92 threats to public safety and to augment all existing state and
 93 local agencies. The Florida State Guard is created as authorized
 94 under federal law for use exclusively within the state,
 95 activated only by the Governor ~~under the specific limitations~~
 96 ~~created by this section,~~ and is at all times under the final
 97 command and control of the Governor as commander in chief of all
 98 military and guard forces of the state. The Florida State Guard
 99 ~~is created and authorized as a component of the organized guard~~
 100 ~~separate and apart from the Florida National Guard and shall be~~

101 used exclusively within the state for the purposes stated in
102 this section and may not be called, ordered, or drafted into the
103 armed forces of the United States. The authorized maximum number
104 of personnel that may be commissioned, enrolled, or employed as
105 members of the Florida State Guard is 1,500 ~~400~~.

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

126 commissioning by the Governor, and approving applicants as
 127 enlisted personnel.

128 ~~(4)~~~~(2)~~ DEFINITIONS.—As used in this section:

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

132 (b) The term "department" means the Department of Military
 133 Affairs.

134 (c) The term "director" means the director of the Division
 135 of the State Guard.

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

138 (e)~~(e)~~ The term "officer" means an officer commissioned by
 139 the Governor.

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

142 (f)~~(e)~~ The term "warrant officer" means a technical
 143 specialist commissioned as a warrant officer by the Governor.

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

151 ~~approving applicants as enlisted personnel.~~

152 (5)~~(4)~~ PERSONNEL.—

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

159 (b) The Governor shall commission all officers and warrant
 160 officers of the Florida State Guard.

161 (c) Each applicant for the Florida State Guard shall meet
 162 the following qualifications:

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

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

170 3. The applicant may not be an active duty servicemember,
 171 a member of the armed forces reserves, or a member of the
 172 Florida National Guard.

173 4. If the applicant is a former member of the armed forces
 174 or of any military or naval organization of this state or
 175 another state, the applicant must have been separated under

176 terms no less than a general discharge under honorable
 177 conditions.

178 (d) The director ~~Adjutant-General~~ shall establish minimum
 179 standards for the age, physical and health condition, and
 180 physical fitness of applicants which are no less than the
 181 standards required for recruitment, enrollment, and retention in
 182 the Florida National Guard.

183 (e) The director ~~Adjutant-General~~ shall develop and
 184 implement a code of regulations for the administration and
 185 discipline of members of the Florida State Guard that shall
 186 provide no less protection and impose no more severe sanctions
 187 than as provided in s. 250.35, except that the director ~~Adjutant~~
 188 ~~General~~ shall not have ~~no~~ authority to impose any term of
 189 incarceration.

190 (6) SPECIALIZED UNIT.—The director shall organize a
 191 specialized unit within the Florida State Guard which shall be
 192 considered a criminal justice agency as defined in s. 943.045
 193 while activated. In addition to the requirements set forth in
 194 paragraph (5)(c), all members of the specialized unit:

195 (a) Must meet the requirements in s. 943.13 and be
 196 certified as law enforcement officers as defined in s.
 197 943.10(1).

198 (b) Are vested with the authority to bear arms, detect,
 199 apprehend, and make arrests while activated.

200 (c) Shall have the same law enforcement authority as the

201 law enforcement agency in conjunction with which they are
 202 working when activated.

203 ~~(7)-(5)~~ TRAINING AND EQUIPMENT.—The director ~~Adjutant~~
 204 ~~General~~ shall develop and implement a program for training for
 205 members of the Florida State Guard.

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

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

219 (c) The division ~~Adjutant General~~ shall provide all
 220 equipment necessary for the training and service of members of
 221 the Florida State Guard and shall arrange and contract for the
 222 use of sufficient and adequate facilities for training,
 223 organizing, and all other purposes of the Florida State Guard.
 224 Section 250.44 applies ~~The provisions of s. 250.44 apply~~ to the
 225 allocation, delegation, use of, and accounting for all equipment

226 | furnished under this section.

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

230 | (8)-(6) ACTIVATION AND DEACTIVATION OF THE FLORIDA STATE
 231 | GUARD.-

232 | (a) The Florida State Guard, by component units or in
 233 | total, may be activated:

234 | 1. During any period when any part of the Florida National
 235 | Guard is in active federal service and the Governor has declared
 236 | a state of emergency; ~~the Florida State Guard may be activated~~
 237 | ~~as part of an emergency order issued by the Governor or in a~~
 238 | ~~separate executive order issued during a declared state of~~
 239 | ~~emergency.~~

240 | 2. ~~(b) The Florida State Guard may be activated only~~ To
 241 | preserve the public peace, execute the laws of the state,
 242 | enhance domestic security, respond to terrorist threats or
 243 | attacks, respond to an emergency as defined in s. 252.34 or
 244 | imminent danger thereof, or respond to any need for emergency
 245 | aid to civil authorities as specified in s. 252.38; or

246 | 3. To protect and defend the people of Florida from
 247 | threats to public safety and to augment any existing state or
 248 | local agency.

249 | ~~(b)-(e)~~ The Florida State Guard shall be deactivated by the
 250 | expiration of the order of activation or by a separate order by

251 the Governor deactivating the Florida State Guard.

252 (9)~~(7)~~ REIMBURSEMENT AND COMPENSATION.—

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

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

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

265 (10)~~(8)~~ EMPLOYMENT PROTECTION, SUSPENSION OF PROCEEDINGS,
 266 LIABILITY, AND WORKERS' COMPENSATION.—

267 (a) The protections for members of the Florida National
 268 Guard provided in ss. 250.48-250.483 and 250.5201-250.5205 ~~shall~~
 269 apply to each member of the Florida State Guard engaged in
 270 required training or active service.

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

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

280 ~~(11)-(9)~~ RULEMAKING AUTHORITY.—The director ~~Adjutant~~
 281 ~~General~~, as head of the division ~~department~~, shall adopt rules
 282 to implement ~~the provisions of~~ this section.

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

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

286 Section 4. Sections 251.01, 251.02, 251.03, 251.04,
 287 251.05, 251.06, 251.07, 251.08, 251.09, 251.10, 251.11, 251.12,
 288 251.13, 251.14, 251.15, 251.16, and 251.17, Florida Statutes,
 289 are repealed.

290 Section 5. Paragraph (a) of subsection (3) of section
 291 790.25, Florida Statutes, is amended to read:

292 790.25 Lawful ownership, possession, and use of firearms
 293 and other weapons.—

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

299 (a) Members of the Militia, National Guard, Florida State
 300 Guard ~~Defense Force~~, Army, Navy, Air Force, Marine Corps, Space

HB 1285

2023

301 Force, Coast Guard, organized reserves, and other armed forces
302 of the state and of the United States, when on duty, when
303 training or preparing themselves for military duty, or while
304 subject to recall or mobilization;

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