

Requested by Senator SMITH DB

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 947**

1 On page 1 of the printed A-engrossed bill, delete lines 11 through 26 and  
2 delete pages 2 through 34 and insert:

3 **SECTION 1.** ORS 30.847 is amended to read:

4 “30.847. (1) A person or group of persons is subject to an action described  
5 in subsection (2) or (3) of this section for engaging in paramilitary activity  
6 if the person or group of persons knowingly, while acting as part of a private  
7 paramilitary organization or on behalf of or in furtherance of any objective  
8 of a private paramilitary organization:

9 “(a) While armed with a deadly weapon, publicly patrols or drills;

10 “(b) While armed with a dangerous or deadly weapon:

11 “(A) Publicly engages in techniques capable of causing physical injury  
12 or death;

13 “(B) Substantially disrupts governmental operations or a government  
14 proceeding;

15 “(C) Assumes, exercises or asserts, without legal authorization, the func-  
16 tions, powers or duties of:

17 “(i) A law enforcement officer, including any sheriff, police officer, mar-  
18 shal or other peace officer; or

19 “(ii) Any local, city, county, state or federal official; or

20 “(D) Interferes with another person and thereby:

21 “(i) Prevents the other person, or attempts to prevent the other person,

1 from engaging in conduct in which the other person has a legal right to  
2 engage; or

3 “(ii) Causes the other person, or attempts to cause the other person, to  
4 engage in conduct from which the other person has a legal right to abstain;  
5 or

6 “(c) Trains to engage in any activity described in paragraph (a) or (b) of  
7 this subsection.

8 “(2)(a) If the Attorney General has reasonable cause to believe that a  
9 person or group of persons has engaged in, or is about to engage in,  
10 paramilitary activity as described in subsection (1) of this section, the At-  
11 torney General may bring a civil action in the name of the State of Oregon  
12 for injunctive relief in Marion County Circuit Court or any other circuit  
13 court of this state.

14 “(b)(A) If it appears to the Attorney General that a person has possession,  
15 custody or control of any information, document or other material that is  
16 relevant to an investigation of paramilitary activity as described in sub-  
17 section (1) of this section, or that could lead to the discovery of relevant  
18 information in an investigation of paramilitary activity as described in sub-  
19 section (1) of this section, the Attorney General may cause an investigative  
20 demand to be served upon the person. The investigative demand may require  
21 the person:

22 “(i) To appear and testify under oath at the time and place stated in the  
23 investigative demand;

24 “(ii) To answer written interrogatories; or

25 “(iii) To produce relevant documentary material or physical evidence for  
26 examination at the time and place stated in the investigative demand.

27 “(B) An investigative demand under this paragraph shall be served in the  
28 manner provided by ORS 646.622 and may be enforced in the manner provided  
29 by ORS 646.626.

30 “(c) When conducting investigations under this section, the Attorney

1 General may not demand, collect or maintain information about the political,  
2 religious or social views, associations or activities of any individual, group,  
3 association, organization, corporation, business or partnership unless the  
4 information directly relates to an investigation into, and there are reason-  
5 able grounds to suspect that the subject of the information is involved in,  
6 paramilitary activity as described in subsection (1) of this section.

7 “(3)(a) A person injured as a result of paramilitary activity as described  
8 in subsection (1) of this section may bring a civil action, individually or  
9 jointly with other aggrieved persons, in the appropriate court for relief  
10 against the person or persons who engaged in the paramilitary activity.

11 “(b) A plaintiff who prevails in a claim under this subsection may recover:

12 “(A) Economic or noneconomic damages, as those terms are defined in  
13 ORS 31.705;

14 “(B) Injunctive relief;

15 “(C) Reasonable attorney fees; and

16 “(D) Any other appropriate equitable relief.

17 “(4) This section does not apply to:

18 “[*(a) The Armed Forces of the United States or the National Guard, as*  
19 *those terms are defined in 10 U.S.C. 101, or any regularly organized state*  
20 *militia or unorganized or reserve militia called into service by a state or the*  
21 *United States, including a defense force authorized under 32 U.S.C. 109(c).]*

22 “**(a)(A) The Armed Forces or the National Guard, as those terms**  
23 **are defined in 10 U.S.C. 101, called into service by a state or by the**  
24 **United States.**

25 “**(B) The Oregon National Guard, as described in ORS 396.105, called**  
26 **into service by the Governor or by the United States.**

27 “**(C) The Oregon Civil Defense Force, as described in ORS 399.035,**  
28 **or any additional forces as may be created by the Governor, called into**  
29 **service by the Governor.**

30 “(b) A group of individuals that associates as a military organization

1 solely for historical purposes or fictional performances, or that parades in  
2 public as part of a bona fide veterans' organization, so long as the group does  
3 not carry or use ammunition or explosives.

4 “(c) Students in an education institution authorized by a state or federal  
5 government to teach military science as a prescribed part of the course of  
6 instruction, when under the supervision of a military instructor.

7 “(d) Members of an organization that is authorized under state or federal  
8 law to provide paramilitary, law enforcement or security services training  
9 or to engage in paramilitary activity or the provision of law enforcement or  
10 security services, when performing the functions authorized by law and, in  
11 the case of paramilitary activity and law enforcement services, when under  
12 the direction and control of a governmental authority.

13 “(e) Any lawful activity of the State Department of Fish and Wildlife.

14 “(f) Any activity intended to teach or practice self-defense or self-defense  
15 techniques, such as karate clubs or self-defense clinics, and similar lawful  
16 activity.

17 “(g) Any facility, program or lawful activity related to firearms instruc-  
18 tion and training intended to teach the safe handling and use of firearms,  
19 or any other lawful sports or activities related to the individual recreational  
20 use or possession of firearms, including but not limited to hunting activities,  
21 target shooting, self-defense, firearms collection or any organized activity,  
22 including but not limited to any hunting club, rifle club, rifle range or  
23 shooting range, which does not include a criminal conspiracy as defined in  
24 ORS 161.450 or the knowledge of or the intent to cause or further acts of  
25 physical violence or damage to persons or property.

26 “(5) As used in this section:

27 “(a) ‘Dangerous weapon’ has the meaning given that term in ORS 161.015.

28 “(b) ‘Deadly weapon’ has the meaning given that term in ORS 161.015.

29 “(c) ‘Private paramilitary organization’ means any group of three or more  
30 persons associating under a command structure for the purpose of function-

1 ing in public or training to function in public as a combat, combat support,  
2 law enforcement or security services unit.

3 “(d) ‘State’ means the District of Columbia or a state, commonwealth,  
4 territory or possession of the United States.

5 **“SECTION 2.** ORS 90.472 is amended to read:

6 “90.472. (1) As used in this section, ‘state service member’ means a mem-  
7 ber of the [*organized militia*] **Oregon National Guard, as described in**  
8 **ORS 396.105, the Oregon Civil Defense Force, as described in ORS**  
9 **399.035, or any additional forces as may be created by the Governor,**  
10 who is called into active service of the state by the Governor under ORS  
11 399.065 (1) for 90 or more consecutive days.

12 “(2) A tenant may terminate a rental agreement upon written notice if the  
13 tenant provides the landlord with proof of official orders showing that the  
14 tenant is a state service member.

15 “(3) A termination of a rental agreement under this section is effective  
16 the earlier of:

17 “(a) Thirty days after the date the next rental payment is due; or

18 “(b) On the last day of the month after the month in which written notice  
19 is given.

20 “(4) Notwithstanding ORS 90.300 (7)(a)(A) and 90.430, a tenant who ter-  
21 minates a lease under subsection (2) of this section is not:

22 “(a) Subject to a penalty, fee, charge or loss of deposit because of the  
23 termination; or

24 “(b) Liable for any rent beyond the effective date of the termination as  
25 determined under subsection (3) of this section.

26 **“SECTION 3.** ORS 105.111 is amended to read:

27 “105.111. (1) As used in this section, ‘state service member’ means a  
28 member of the [*organized militia*] **Oregon National Guard, as described**  
29 **in ORS 396.105, the Oregon Civil Defense Force, as described in ORS**  
30 **399.035, or any additional forces as may be created by the Governor,**

1 who is called into active service of the state by the Governor under ORS  
2 399.065 (1) for 30 or more consecutive days.

3 “(2) In an action pursuant to ORS 105.110, the court may stay the eviction  
4 of the defendant for up to 90 days if:

5 “(a) The defendant is a state service member;

6 “(b) The agreed-upon rent does not exceed \$1,200 per month; and

7 “(c) The premises are occupied chiefly for dwelling purposes by the  
8 spouse, children or other dependents of the defendant.

9 “(3) If the defendant requests a stay of the eviction for up to 90 days and  
10 the defendant can prove that the ability of the defendant to pay the agreed-  
11 upon rent is materially affected by being called into active service, the court  
12 may grant the stay of the eviction.

13 **“SECTION 4.** ORS 109.056 is amended to read:

14 “109.056. (1) Except as provided in subsection (2) or (3) of this section, a  
15 parent or guardian of a minor or incapacitated person, by a properly exe-  
16 cuted power of attorney, may delegate to another person, for a period not  
17 exceeding six months, any of the powers of the parent or guardian regarding  
18 care, custody or property of the minor child or ward, except the power to  
19 consent to marriage or adoption of a minor ward.

20 “(2) A parent or guardian of a minor child may delegate the powers des-  
21 ignated in subsection (1) of this section to a school administrator for a pe-  
22 riod not exceeding 12 months.

23 “(3)(a) As used in this subsection, ‘servicemember-parent’ means a parent  
24 or guardian:

25 “(A) Who is:

26 “(i) A member of the [*organized militia of this state*] **Oregon National**  
27 **Guard, as described in ORS 396.105, the Oregon Civil Defense Force,**  
28 **as described in ORS 399.035, or any additional forces as may be created**  
29 **by the Governor;**

30 “(ii) A member of the Reserves of the Army, Navy, Air Force, Marine

1 Corps or Coast Guard of the United States;

2 “(iii) A member of the commissioned corps of the National Oceanic and  
3 Atmospheric Administration; or

4 “(iv) A member of the Public Health Service of the United States De-  
5 partment of Health and Human Services detailed by proper authority for  
6 duty with the Army or Navy of the United States; and

7 “(B) Who is required to enter and serve in the active military service of  
8 the United States under a call or order by the President of the United States  
9 or to serve on state active duty as defined in the Oregon Code of Military  
10 Justice.

11 “(b) A servicemember-parent of a minor child may delegate the powers  
12 designated in subsection (1) of this section for a period not exceeding the  
13 term of active duty service plus 30 days.

14 “(c) Except as provided in paragraph (d) of this subsection, if the minor  
15 child is living with the child’s other parent, a delegation under paragraph  
16 (b) of this subsection must be to the parent with whom the minor child is  
17 living unless a court finds that the delegation would not be in the best in-  
18 terests of the minor child.

19 “(d) When the servicemember-parent has joint custody of the minor child  
20 with the child’s other parent or another individual, and the servicemember-  
21 parent is married to an individual other than the child’s other parent, the  
22 servicemember-parent may delegate the powers designated in subsection (1)  
23 of this section to the spouse of the servicemember-parent for a period not  
24 exceeding the term of active duty service plus 30 days, unless a court finds  
25 that the delegation would not be in the best interests of the minor child.

26 **“SECTION 5.** ORS 166.660 is amended to read:

27 “166.660. (1) A person commits the crime of unlawful paramilitary activity  
28 if the person:

29 “(a) Exhibits, displays or demonstrates to another person the use, appli-  
30 cation or making of any firearm, explosive or incendiary device or any

1 technique capable of causing injury or death to persons and intends or knows  
2 that such firearm, explosive or incendiary device or technique will be un-  
3 lawfully employed for use in a civil disorder; or

4 “(b) Assembles with one or more other persons for the purpose of training  
5 with, practicing with or being instructed in the use of any firearm, explosive  
6 or incendiary device or technique capable of causing injury or death to per-  
7 sons with the intent to unlawfully employ such firearm, explosive or  
8 incendiary device or technique in a civil disorder.

9 “(2)(a) Nothing in this section makes unlawful any act of any law  
10 enforcement officer performed in the otherwise lawful performance of the  
11 officer’s official duties.

12 “(b) Nothing in this section makes unlawful any activity of the State  
13 Department of Fish and Wildlife, or any activity intended to teach or prac-  
14 tice self-defense or self-defense techniques, such as karate clubs or self-  
15 defense clinics, and similar lawful activity, or any facility, program or lawful  
16 activity related to firearms instruction and training intended to teach the  
17 safe handling and use of firearms, or any other lawful sports or activities  
18 related to the individual recreational use or possession of firearms, including  
19 but not limited to hunting activities, target shooting, self-defense, firearms  
20 collection or any organized activity including, but not limited to any hunting  
21 club, rifle club, rifle range or shooting range which does not include a con-  
22 spiracy as defined in ORS 161.450 or the knowledge of or the intent to cause  
23 or further a civil disorder.

24 “(3) Unlawful paramilitary activity is a Class C felony.

25 “(4) As used in this section:

26 “(a) ‘Civil disorder’ means acts of physical violence by assemblages of  
27 three or more persons which cause damage or injury, or immediate danger  
28 thereof, to the person or property of any other individual.

29 “(b) ‘Firearm’ has the meaning given that term in ORS 166.210.

30 “(c) ‘Explosive’ means a chemical compound, mixture or device that is



1 commonly used or intended for the purpose of producing a chemical reaction  
2 resulting in a substantially instantaneous release of gas and heat, including  
3 but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and  
4 nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder,  
5 smokeless powder, small arms ammunition and small arms ammunition  
6 primers.

7 “(d) ‘Law enforcement officer’ means any duly constituted police officer  
8 of the United States, any state, any political subdivision of a state or the  
9 District of Columbia, and also includes members of the military reserve  
10 forces or National Guard as defined in **10 U.S.C. 101(c)** [*10 U.S.C. 101 (9),*  
11 *members of the organized militia of any state or territory of the United States,*  
12 *the Commonwealth of Puerto Rico or the District of Columbia not included*  
13 *within the definition of National Guard as defined by 10 U.S.C. 101 (9)*],  
14 members of the Armed Forces of the United States and such persons as are  
15 defined in ORS 161.015 (4) when in the performance of official duties.

16 **“SECTION 6.** ORS 181A.893 is amended to read:

17 “181A.893. (1) It is unlawful:

18 “(a) For an entity that employs private security providers to use a name  
19 that implies that the entity is, or is affiliated with, an existing law enforce-  
20 ment unit or public safety agency as defined in ORS 181A.355, the [*organized*  
21 *militia as described in ORS 396.105*] **Oregon National Guard, as described**  
22 **in ORS 396.105, the Oregon Civil Defense Force, as described in ORS**  
23 **399.035, any additional forces as may be created by the Governor,** the  
24 Armed Forces of the United States, a federal law enforcement agency or a  
25 federal intelligence agency.

26 “(b) For a private security provider or an entity that employs private se-  
27 curity providers to possess or use in the scope of employment equipment,  
28 vehicles, uniforms or titles that imply that the provider or entity is affiliated  
29 with a public or private safety agency as defined in ORS 181A.355.

30 “(2) The Board on Public Safety Standards and Training, in consultation

1 with the Department of Public Safety Standards and Training, shall adopt  
2 rules related to the requirements of subsection (1) of this section.

3 “(3) This section does not apply to special campus security providers  
4 commissioned under ORS 352.118 or private security providers on campuses  
5 of institutions of higher education regulated under ORS 181A.972.

6 “**SECTION 7.** ORS 307.286 is amended to read:

7 “307.286. (1) Upon compliance with ORS 307.289, there shall be exempt  
8 from taxation up to \$60,000 of the assessed value of the homestead of any  
9 resident of this state who is:

10 “(a) Serving in the Oregon National Guard, military reserve forces or  
11 [*organized militia*] **National Guard** of any other state or territory of the  
12 United States; and

13 “(b) Performing service:

14 “(A) Under Title 10 of the United States Code or pursuant to a deploy-  
15 ment made under the authority of the Emergency Management Assistance  
16 Compact; and

17 “(B) For more than 178 consecutive days, if at least one of the days falls  
18 within the tax year for which the exemption is claimed.

19 “(2) For each tax year beginning on or after July 1, 2006, the amount of  
20 the exemption allowed under subsection (1) of this section shall equal 103  
21 percent of the amount of the exemption for the prior tax year.

22 “(3) As used in this section, ‘homestead’ means residential property that  
23 is owned by a person described in subsection (1) of this section and that, but  
24 for military service, would be occupied as a residence by the person.

25 “**SECTION 8.** ORS 314.091 is amended to read:

26 “314.091. (1) This section applies to a taxpayer who is a member of the  
27 Armed Forces of the United States who is on active duty for 90 consecutive  
28 days or more or who is a member of the Oregon National Guard, the military  
29 reserve forces or the [*organized militia*] **National Guard** of any other state  
30 or territory of the United States who performs service in a status under Title

1 10 of the United States Code for a period of 90 consecutive days or more.

2 “(2) If a taxpayer described in subsection (1) of this section has an unpaid  
3 tax liability for a tax due under ORS chapter 316 that arose during a period  
4 in which service is performed as described in subsection (1) of this section,  
5 the unpaid tax liability, and all interest and penalties associated with the  
6 unpaid tax liability, shall be held in abeyance until a date that is six months  
7 after the date that the taxpayer’s active duty or status under Title 10 of the  
8 United States Code ceases.

9 **“SECTION 9.** ORS 396.005 is amended to read:

10 “396.005. As used in this chapter and ORS chapter 399:

11 “(1) ‘Active service’ includes:

12 “(a) Active service of the state.

13 “(b) Service performed on full-time duty status under Title 10 of the  
14 United States Code.

15 “(c) Service performed on full-time duty status under Title 32 of the  
16 United States Code when performed under an authority other than the Gov-  
17 ernor.

18 “(2) ‘Active service of the state’ means service performed while on full-  
19 time duty status for training, operational duty or other service of the [*or-*  
20 *ganized militia*] **Oregon National Guard, the Oregon Civil Defense Force**  
21 **or any additional forces as may be created by the Governor**, under the  
22 authority of the Governor, whether paid from state funds or federal funds  
23 under Title 32 of the United States Code.

24 “(3) ‘State active duty’ means full-time duty status for training, opera-  
25 tional duty or other service, other than inactive duty, of the [*organized*  
26 *militia*] **Oregon National Guard, Oregon Civil Defense Force or any**  
27 **additional forces as may be created by the Governor**, performed under  
28 the authority of the Governor and paid from state funds.

29 **“SECTION 10.** ORS 396.015 is amended to read:

30 “396.015. (1) The **following** terms, [*unorganized militia*,’ ‘*all or any part*

1 *of the organized militia,’ and ‘organized militia or any force thereof,]’* when-  
2 ever used in this chapter and ORS chapters 398 and 399, unless a different  
3 meaning is plainly required by the context, [*shall be deemed to*] include any  
4 unit, command, component, element, headquarters, staff or cadre thereof as  
5 well as any member thereof[.]:

6 **“(a) ‘Oregon National Guard.’**

7 **“(b) ‘Oregon Civil Defense Force.’**

8 **“(c) ‘Any additional forces as may be created by the Governor.’**

9 **“(2) ‘Oregon National Guard,’ whenever used in this chapter and**  
10 **ORS chapters 398 and 399, unless a different meaning is plainly re-**  
11 **quired by the context, means the Oregon National Guard as described**  
12 **in ORS 396.105.**

13 **“SECTION 11.** ORS 396.025 is amended to read:

14 “396.025. (1) It is the intent of this chapter and ORS chapters 398 and 399  
15 to provide for the Oregon Military Department and for the [*state Militia*]  
16 **Oregon National Guard, the Oregon Civil Defense Force and any ad-**  
17 **ditional forces as may be created by the Governor** and for the organ-  
18 ization, equipment, regulation and use thereof.

19 “(2) All matters relating to the organization, discipline and government  
20 of the [*organized militia*] **Oregon National Guard, the Oregon Civil De-**  
21 **fense Force or any additional forces as may be created by the Gover-**  
22 **nor**, not otherwise provided for in this chapter and ORS chapters 398 and  
23 399 or in military department regulations issued pursuant thereto, shall be  
24 decided by the customs and usage of the appropriate force or forces of the  
25 Armed Forces of the United States.

26 **“SECTION 12.** ORS 396.105 is amended to read:

27 “396.105. [(1) *The militia of the state shall be divided into the organized*  
28 *militia and the unorganized militia.*]

29 “[2) *The organized militia shall be composed of the Oregon Army National*  
30 *Guard and the Oregon Air National Guard, which forces together with an*

1 *inactive National Guard shall comprise the Oregon National Guard; the*  
2 *Oregon Civil Defense Force whenever such a force shall be duly organized;*  
3 *and such additional forces as may be created by the Governor.]*

4 “[(3) *The unorganized militia shall consist of all able-bodied residents of*  
5 *the state between the ages of 18 and 45 who are not serving in any force of the*  
6 *organized militia or who are not on the state retired list and who are or who*  
7 *have declared their intention to become citizens of the United States; subject,*  
8 *however, to such exemptions from military duty as are created by the laws of*  
9 *the United States.]*

10 **“The Oregon National Guard shall be composed of:**

11 **“(1) The Army National Guard, as described in ORS 399.015;**

12 **“(2) The Air National Guard, as described in ORS 399.025; and**

13 **“(3) Any inactive members of the Army National Guard or Air Na-**  
14 **tional Guard, as those terms are described in ORS 399.015 and 399.025.**

15 **“SECTION 13. ORS 396.115 is amended to read:**

16 **“396.115. The following persons shall be exempt from [*militia*] service in**  
17 **the Oregon National Guard, the Oregon Civil Defense Force and any**  
18 **additional forces as may be created by the Governor:**

19 **“(1) Persons exempt from [*militia*] service by the laws of the United**  
20 **States.**

21 **“(2) Regular or duly ordained ministers of religion, or duly elected church**  
22 **officials regularly conducting church services, or those recognized by their**  
23 **church as devoting the major portion of their time to the practice of religion.**

24 **“(3) Students preparing for the ministry in accredited theological or di-**  
25 **vinity schools.**

26 **“(4) Persons whose religious tenets or conscientious scruples forbid them**  
27 **to bear arms.**

28 **“SECTION 14. ORS 396.120 is amended to read:**

29 **“396.120. (1) The following persons of the [*organized militia*] **Oregon****  
30 **National Guard, the Oregon Civil Defense Force and any additional**

1 **forces as may be created by the Governor** may administer oaths for the  
2 purposes of military administration, including military justice, and affidavits  
3 may be taken for those purposes before those persons who shall have the  
4 general powers of a notary public:

5 “(a) The State Judge Advocate and all Assistant State Judge Advocates.

6 “(b) All law specialists.

7 “(c) All summary courts-martial.

8 “(d) All adjutants, assistant adjutants, acting adjutants, personnel adju-  
9 tants and other persons of equivalent responsibility who may be assigned a  
10 different position title by their respective force.

11 “(e) All legal officers.

12 “(f) The president, law officer, trial counsel and assistant trial counsel for  
13 all general and special courts-martial.

14 “(g) The president and the counsel for the court of any court of inquiry.

15 “(h) All officers designated to take a deposition.

16 “(i) All persons detailed to conduct an investigation.

17 “(j) All other persons designated by military department regulations is-  
18 sued by the Governor.

19 “(2) The signature without seal of any such person, together with the title  
20 of office, is prima facie evidence of authority.

21 **“SECTION 15.** ORS 396.125 is amended to read:

22 “396.125. (1) The Governor of this state, by virtue of office, is the  
23 Commander in Chief of the [*militia of this state*] **Oregon National Guard,**  
24 **the Oregon Civil Defense Force and any additional forces as may be**  
25 **created by the Governor,** and may issue military regulations for the  
26 governance of the [*militia*] **Oregon National Guard, the Oregon Civil**  
27 **Defense Force or any additional forces as may be created by the Gov-**  
28 **ernor.** Military regulations issued by the Governor shall have the full force  
29 and effect of law. To the extent a regulation issued under this section con-  
30 flicts with any other law of this state, the regulation shall supersede the

1 conflicting law.

2 “(2) In issuing regulations under this section, the Governor may give  
3 consideration to the laws and regulations of the United States relating to  
4 the organization, discipline and training of the [*militia*] **Oregon National**  
5 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
6 **be created by the Governor**, to the provisions of this chapter and ORS  
7 chapters 398 and 399 and to the laws and regulations governing the United  
8 States Army and United States Air Force.

9 “(3) The Governor may delegate to the Adjutant General authority to is-  
10 sue the regulations described in this section for the governance of the  
11 [*militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
12 **additional forces as may be created by the Governor.**

13 **“SECTION 16.** ORS 396.128 is amended to read:

14 “396.128. (1) If the Adjutant General issues regulations **under ORS**  
15 **396.125** for the governance of the [*organized militia*] **Oregon National**  
16 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
17 **be created by the Governor** [*as provided under ORS 396.125*], the Adjutant  
18 General shall specify in the regulations a date on which the regulations be-  
19 come operative for the purposes of all conduct subject to the regulations  
20 occurring on or after the specified date. To the extent a regulation issued  
21 under this section conflicts with a provision of this chapter, ORS chapter  
22 398 or 399 or any other law of this state, the regulation shall supersede the  
23 conflicting provision or law.

24 “(2) Regulations issued by the Adjutant General under this section and  
25 ORS 396.125 that have become operative shall be known and cited as ‘the  
26 Oregon Code of Military Justice.’

27 **“SECTION 16a.** ORS 396.128 is added to and made a part of ORS  
28 **chapter 396.**

29 **“SECTION 17.** ORS 396.130 is amended to read:

30 “396.130. (1) The Governor may order the [*organized militia*] **Oregon**

1 **National Guard, the Oregon Civil Defense Force or any additional**  
2 **forces as may be created by the Governor,** or any part thereof, to serve  
3 outside the borders of this state or of the United States in order to perform  
4 military duty of every description and to participate in parades, reviews,  
5 cruises, conferences, encampments, maneuvers or other training, and to par-  
6 ticipate in small arms and other military competitions and to attend service  
7 schools.

8 “(2) The provisions of this chapter and ORS chapters 398 and 399 shall  
9 apply to the members of the [*organized militia*] **Oregon National Guard,**  
10 **the Oregon Civil Defense Force or any additional forces as may be**  
11 **created by the Governor** while serving without the state and while going  
12 to and returning from such service without the state in like manner and to  
13 the same extent as while serving within the state.

14 **“SECTION 18.** ORS 396.135 is amended to read:

15 “396.135. When the [*militia of the state*] **Oregon National Guard, the**  
16 **Oregon Civil Defense Force or any additional forces as may be created**  
17 **by the Governor,** or any part thereof, is called forth under the Constitution  
18 and laws of the United States, the Governor shall order out for service the  
19 [*organized militia*] **Oregon National Guard, the Oregon Civil Defense**  
20 **Force or any additional forces as may be created by the Governor,** or  
21 [*such*] **any** part thereof, as may be necessary, and if the number available is  
22 insufficient the Governor may call for and accept from the [*unorganized*  
23 *militia*] **general public** as many volunteers as are required for service in the  
24 [*organized militia*] **Oregon National Guard, the Oregon Civil Defense**  
25 **Force or any additional forces as may be created by the Governor,** or  
26 the Governor may direct [*the*] members of the [*unorganized militia or such*  
27 *of them*] **general public** as the Governor may deem necessary to be drafted  
28 into the [*organized militia*] **Oregon National Guard, the Oregon Civil**  
29 **Defense Force or any additional forces as may be created by the Gov-**  
30 **ernor.**



1       **“SECTION 19.** ORS 396.140 is amended to read:

2       “396.140. [(1)] Whenever the Governor deems it necessary, the Governor  
3 may direct [*the*] members of the [*unorganized militia*] **general public** to  
4 present themselves for and submit to registration **for service in the Oregon**  
5 **National Guard, the Oregon Civil Defense Force or any additional**  
6 **forces as may be created by the Governor**, at such time and place and  
7 in such manner as may be prescribed by military department regulations is-  
8 sued pursuant to this chapter and ORS chapters 398 and 399.

9       “[(2) *Any member of the unorganized militia who is ordered to register*  
10 *under the provisions of this section or to be drafted into the organized militia*  
11 *under ORS 396.135, and who fails to appear at the time and place designated*  
12 *in such order, shall be guilty of a misdemeanor.*]

13       **“SECTION 20.** ORS 396.160 is amended to read:

14       “396.160. (1) The Adjutant General shall be the Director of the Oregon  
15 Military Department, and Chief of Staff to the Governor. The Adjutant  
16 General shall be the Commander of the Oregon National Guard.

17       “(2) The Adjutant General shall be charged, under the direction of the  
18 Governor, with the supervision of all matters pertaining to the adminis-  
19 tration, discipline, mobilization, organization and training of the Oregon  
20 National Guard, [*and*] the Oregon Civil Defense Force **and any additional**  
21 **forces as may be created by the Governor**, and shall collaborate with the  
22 Superintendent of State Police and any county sheriff that has formed a  
23 volunteer County Civil Defense Force under ORS 399.035.

24       “(3) The Adjutant General shall perform all duties required by the laws  
25 of the United States and of the State of Oregon, and the regulations issued  
26 thereunder, now or hereafter promulgated.

27       “(4) The Adjutant General may employ such deputies, assistants and other  
28 personnel as the Adjutant General shall deem necessary to assist the Adju-  
29 tant General in the performance of those duties required of the Adjutant  
30 General as Director of the Oregon Military Department. The Adjutant Gen-

1 eral shall fix the compensation of such deputies, assistants and other per-  
2 sonnel in accordance with then existing state laws, budgetary restrictions  
3 and employment policies.

4 “(5) The Adjutant General shall supervise the preparation and submission  
5 of all returns and reports pertaining to the [*militia of the state*] **Oregon**  
6 **National Guard, the Oregon Civil Defense Force or any additional**  
7 **forces as may be created by the Governor** as may be required by the  
8 United States.

9 “(6) The Adjutant General shall be the channel of official military corre-  
10 spondence with the Governor, and shall, on or before November 1 of each  
11 year, make a report to the Governor of the transactions, expenditures and  
12 condition of the Oregon National Guard. The report shall include the report  
13 of the United States Property and Fiscal Officer.

14 “(7) The Adjutant General shall be the custodian of records of officers and  
15 enlisted personnel and all other records and papers required by law or reg-  
16 ulations to be filed in the office of the Adjutant General. The Adjutant  
17 General may deposit with the State Archivist for safekeeping in the official  
18 custody, records of the office of the Adjutant General that are used for his-  
19 torical purposes rather than the administrative purposes assigned to the of-  
20 fice of the Adjutant General by law.

21 “(8) The Adjutant General shall attest and record all military commis-  
22 sions issued by the Governor and keep a roll of all commissioned officers,  
23 with dates of commission and all changes occurring in the commissioned  
24 forces.

25 “(9) The Adjutant General shall record, authenticate and communicate to  
26 troops and individuals of the [*militia*] **Oregon National Guard, the Oregon**  
27 **Civil Defense Force and any additional forces as may be created by the**  
28 **Governor** all orders, instructions and regulations.

29 “(10) The Adjutant General shall cause to be procured, printed and cir-  
30 culated to those concerned all books, blank forms, laws, regulations or other

1 publications governing the [*militia*] **Oregon National Guard, the Oregon**  
2 **Civil Defense Force or any additional forces as may be created by the**  
3 **Governor** needful to the proper administration, operation and training  
4 thereof or to carry into effect the provisions of this chapter and ORS chap-  
5 ters 398 and 399.

6 “(11) The Adjutant General shall have an appropriate seal of office and  
7 affix its impression to all certificates of record issued from the office of the  
8 Adjutant General.

9 “(12) The Adjutant General shall render such professional aid and assist-  
10 ance and perform such military duties, not otherwise assigned, as may be  
11 ordered by the Governor.

12 “(13) The Adjutant General shall, in time of peace, perform the duties of  
13 quartermaster general and chief of ordnance.

14 “(14) The Adjutant General may issue regulations as described in ORS  
15 396.125 (1) if authority is delegated to the Adjutant General by the Governor.

16 **“SECTION 21.** ORS 396.305 is amended to read:

17 “396.305. (1) The Oregon Military Department is established. The de-  
18 partment, under the direction of the Governor, shall be responsible as pro-  
19 vided in this chapter and ORS chapters 398 and 399 for the supervision of  
20 the military affairs of the state.

21 “(2) The military department shall prepare and promulgate necessary  
22 regulations for the organization, governance, armament, equipment, training  
23 and compensation of the [*militia of the state*] **Oregon National Guard, the**  
24 **Oregon Civil Defense Force and any additional forces as may be cre-**  
25 **ated by the Governor** in conformity with the provisions of this chapter,  
26 ORS chapters 398 and 399 and the laws of the United States. Regulations so  
27 made shall be subject to the approval of the Governor.

28 “(3) The military department shall make such changes in the military  
29 organization of the Oregon National Guard as are necessary from time to  
30 time to conform to the requirements of the laws of the United States and the

1 directives of the National Guard Bureau.

2 “(4) The military department shall fix the location of the units and  
3 headquarters of the Oregon National Guard, and shall, subject to the ap-  
4 proval of the National Guard Bureau, transfer, attach, consolidate or inac-  
5 tivate any organization or unit when in its judgment the efficiency of the  
6 present organization will be increased thereby.

7 “(5) The military department shall have the power to establish awards and  
8 decorations and to approve the design therefor.

9 **“SECTION 22.** ORS 396.332 is amended to read:

10 “396.332. For the purpose of requesting a state or nationwide criminal  
11 records check under ORS 181A.195, the Oregon Military Department may  
12 require the fingerprints of:

13 “(1) A person who is applying for or is employed in a position in a job  
14 category for which a state or nationwide criminal records check is a job  
15 qualifier and in which personnel:

16 “(a) Are assigned to the at-risk youth alternative education program;

17 “(b) Are issued firearms and munitions;

18 “(c) Have fiscal and purchasing responsibilities as their primary respon-  
19 sibilities; or

20 “(d) Have regular access to restricted areas within a military installation.

21 “(2) A person who is applying to join [*the organized militia of this state,*  
22 *as described in ORS 396.105, or is a member of the organized militia of this*  
23 *state]* **or is a member of the Oregon National Guard, the Oregon Civil**  
24 **Defense Force or any additional forces as may be created by the Gov-**  
25 **ernor.**

26 **“SECTION 23.** ORS 396.355 is amended to read:

27 “396.355. (1) As used in this section, ‘settle’ means consider, ascertain,  
28 adjust, determine and dispose of a claim, whether by full or partial allowance  
29 or by disallowance.

30 “(2) Under such military department regulations as the Governor may

1 prescribe, the Governor or, subject to appeal to the Governor, the Adjutant  
2 General, may settle and pay in an amount not more than \$500 a claim against  
3 the state for:

4 “(a) Damage to or loss of real property, including damage or loss incident  
5 to use and occupancy; and

6 “(b) Damage to or loss of personal property, either caused by a member  
7 of the [*organized militia*] **Oregon National Guard, the Oregon Civil De-**  
8 **fense Force or any additional forces as may be created by the Gover-**  
9 **nor**, acting within the scope of assigned duties, or otherwise incident to  
10 noncombat activities of the [*organized militia*] **Oregon National Guard, the**  
11 **Oregon Civil Defense Force or any additional forces as may be created**  
12 **by the Governor.**

13 “(3) A claim may be allowed under subsection (2) of this section only if:

14 “(a) It is presented in writing within one year after it accrues;

15 “(b) It is not payable under section 2733 or 2734 of title 10, United States  
16 Code, under section 2672 of title 28, United States Code or under section 715  
17 of title 32, United States Code;

18 “(c) The damage to, or loss of, property was not caused wholly or partly  
19 by a negligent or wrongful act of the claimant, agent or employee of the  
20 claimant; and

21 “(d) It is substantiated as prescribed in regulations issued pursuant to  
22 this chapter and ORS chapters 398 and 399.

23 “(4) No claim may be paid under this section unless the amount tendered  
24 is accepted by the claimant in full satisfaction.

25 “(5) Notwithstanding any other provision of law, the settlement of a claim  
26 under this section is final and conclusive.

27 “(6) Claims approved for payment under this section shall be paid from  
28 moneys available to the military department.

29 **“SECTION 24.** ORS 396.530 is amended to read:

30 “396.530. Armories may be constructed in locations not already provided

1 with armories or in which existing armories are inadequate, where one or  
2 more units of the [*organized militia*] **Oregon National Guard, the Oregon**  
3 **Civil Defense Force or any additional forces as may be created by the**  
4 **Governor**, fully organized under this chapter and ORS chapters 398 and 399,  
5 may be located and where, in the judgment of the military department, it  
6 will be most convenient to the units, and where most needed. All title to the  
7 armory and grounds upon which it is situated shall vest in the State of  
8 Oregon.

9 **“SECTION 25.** ORS 396.535 is amended to read:

10 “396.535. (1) The military department shall be a body corporate and shall  
11 have the powers of a corporation for the purpose of purchasing, leasing,  
12 renting or otherwise acquiring buildings or parts thereof, grounds, premises,  
13 offices, rooms, warehouses, garages, shops and storage areas for the use of  
14 the department or any unit of the [*organized militia*] **Oregon National**  
15 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
16 **be created by the Governor.** For such purpose the military department,  
17 subject to the review and supervision of the Oregon Department of Admin-  
18 istrative Services as required by ORS 276.428 and 276.429, may make and  
19 execute contracts and agreements the legal form and sufficiency of which  
20 shall first be approved by the Attorney General.

21 “(2) Costs and charges in connection with the acquisition and use of  
22 property under this section shall be paid from funds appropriated for the use  
23 of the military department and shall not be general obligations of the State  
24 of Oregon.

25 **“SECTION 26.** ORS 396.540 is amended to read:

26 “396.540. (1) Armories may be used by members and units of the [*organized*  
27 *militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
28 **additional forces as may be created by the Governor** in accordance with  
29 regulations issued pursuant to this chapter and ORS chapters 398 and 399.

30 “(2) Armories may be used by any veterans’ organizations and their aux-

1 iliarities located in the community where the armory is located, provided such  
2 use will not interfere with the use of the facilities by the [*organized*  
3 *militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
4 **additional forces as may be created by the Governor** or result in risk to  
5 federal or state property, and provided that the organization makes a written  
6 request therefor and pays for heat, lights, janitor service and other expense  
7 required by such use.

8 “(3) Armories may be used by any federal, state, county and municipal  
9 bureau, agency or department or by the Armed Forces of the United States,  
10 including the Coast Guard, or by the reserve components thereof for their  
11 official business, provided that such use does not interfere with the members  
12 and units of the [*organized militia*] **Oregon National Guard, the Oregon**  
13 **Civil Defense Force or any additional forces as may be created by the**  
14 **Governor** stationed in such armory, and provided that such use is approved  
15 by the officer in charge thereof and by military superiors as prescribed by  
16 military department regulations issued pursuant to this chapter and ORS  
17 chapters 398 and 399.

18 “(4) Armories may be rented for use by a person, firm, association or  
19 corporation, not specified elsewhere in this section, for such purposes and  
20 upon such terms as may be approved by the officer in charge of the armory  
21 and by military superiors as prescribed by military department regulations  
22 issued pursuant to this chapter and ORS chapters 398 and 399 and provided  
23 that such use will not, and only so long as such use does not, interfere with  
24 the use of the armory by the members and units of the [*organized militia*]  
25 **Oregon National Guard, the Oregon Civil Defense Force or any addi-**  
26 **tional forces as may be created by the Governor** stationed therein.

27 “(5) The Oregon National Guard Association described in ORS 399.460  
28 may use an armory or other military facility at no cost, provided that the  
29 use is approved by the officer in charge and by military superiors as pre-  
30 scribed by military department regulations issued pursuant to this chapter

1 and ORS chapters 398 and 399.

2 **“SECTION 27.** ORS 398.004 is amended to read:

3 “398.004. (1) The following persons who are not in federal service are  
4 subject to the Oregon Code of Military Justice as described in ORS 396.128:

5 “(a) Members of the [*organized militia*] **Oregon National Guard, the**  
6 **Oregon Civil Defense Force or any additional forces as may be created**  
7 **by the Governor.**

8 “(b) All other persons lawfully ordered to duty in or with the [*organized*  
9 *militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
10 **additional forces as may be created by the Governor,** from the dates they  
11 are required by the terms of the order or other directive to obey the same.

12 “(2) A person may not be tried or punished for any offense provided in  
13 the Oregon Code of Military Justice unless:

14 “(a) The offense was committed while the person was in a duty status  
15 during a period of time in which the person was under lawful orders to be  
16 in a duty status; or

17 “(b) The offense charged has a connection with the military status or as-  
18 signment of the person. For purposes of this paragraph, the required con-  
19 nection with military status or assignment is conclusively established for  
20 offenses for which there is no equivalent offense in the general criminal laws  
21 of this state and for offenses involving wrongful use, possession, manufac-  
22 ture, distribution or introduction of a controlled substance described in Ar-  
23 ticle 112a of the Oregon Code of Military Justice.

24 “(3)(a) Subject matter jurisdiction is established if a nexus exists between  
25 an offense, either military or nonmilitary, and the state military force.

26 “(b) State military forces have primary jurisdiction of military offenses  
27 defined in Article 1(a)(18) of the Oregon Code of Military Justice when per-  
28 sons subject to the code are in a duty status or are properly ordered to be  
29 in a duty status.

30 “(c) Except as provided in paragraph (f) of this subsection, a civilian



1 court has primary jurisdiction of an offense when:

2 “(A) An act or omission violates both the Oregon Code of Military Justice  
3 and a state, federal or foreign criminal law; and

4 “(B) A person subject to the code was neither in a duty status nor prop-  
5 erly ordered to be in a duty status at the time of the act or omission.

6 “(d) When a person is charged with an offense described in paragraph (c)  
7 of this subsection, a court-martial or nonjudicial punishment may be initi-  
8 ated only after a civilian court has declined to prosecute or has dismissed  
9 the charge, provided jeopardy has not attached.

10 “(e) Jurisdiction over attempted crimes, conspiracy crimes, solicitation  
11 and accessory crimes must be determined by the underlying offense.

12 “(f) State military forces have jurisdiction of any offense involving a  
13 person subject to the Oregon Code of Military Justice when the person is in  
14 a duty status, when the person is properly ordered to be in a duty status or  
15 when the sole offense is conduct that is prohibited by Article 112a of the  
16 Oregon Code of Military Justice.

17 **“SECTION 28.** ORS 398.006 is amended to read:

18 “398.006. (1) Each person discharged from the [*organized militia*] **Oregon**  
19 **National Guard, the Oregon Civil Defense Force or any additional**  
20 **forces as may be created by the Governor** who is later charged with  
21 having fraudulently obtained the discharge of the person is, subject to ORS  
22 398.216, subject to trial by court-martial on that charge and is after appre-  
23 hension subject to the Oregon Code of Military Justice while in the custody  
24 of the military for that trial. Upon conviction of that charge, the person is  
25 subject to trial by court-martial for all offenses under the Oregon Code of  
26 Military Justice committed before the fraudulent discharge.

27 “(2) A person who has deserted from the [*organized militia*] **Oregon Na-**  
28 **tional Guard, the Oregon Civil Defense Force or any additional forces**  
29 **as may be created by the Governor** may not be relieved from amenability  
30 to the jurisdiction of the Oregon Code of Military Justice by virtue of a

1 separation from any later period of service.

2 **“SECTION 29.** ORS 398.010 is amended to read:

3 “398.010. (1) The Oregon Code of Military Justice applies throughout this  
4 state and also applies to all persons otherwise subject to the code while they  
5 are serving outside the state, and while they are going to and returning from  
6 such service outside the state, in the same manner and to the same extent  
7 as if they were serving inside the state.

8 “(2) Courts-martial and courts of inquiry may be convened and held in  
9 units of the [*organized militia*] **Oregon National Guard, the Oregon Civil**  
10 **Defense Force or any additional forces as may be created by the Gov-**  
11 **ernor** while those units are serving outside the state with the same juris-  
12 diction and powers as to persons subject to the Oregon Code of Military  
13 Justice as if the proceedings were held inside the state. Offenses committed  
14 outside the state may be tried and punished either inside or outside the state.

15 **“SECTION 30.** ORS 398.012 is amended to read:

16 “398.012. (1) The Governor, on the recommendation of the Adjutant Gen-  
17 eral, shall appoint an officer of the [*organized militia*] **Oregon National**  
18 **Guard** as State Judge Advocate. To be eligible for appointment as State  
19 Judge Advocate, an officer must:

20 “(a) Be a member in good standing of the Oregon State Bar;

21 “(b) Have been a member of the Oregon State Bar for at least five years;  
22 and

23 “(c) Meet the qualifications for a judge advocate under the Uniform Code  
24 of Military Justice, 10 U.S.C. 801 et seq.

25 “(2) The Adjutant General may appoint an officer of the [*organized*  
26 *militia*] **Oregon National Guard** as an Assistant State Judge Advocate. The  
27 Adjutant General may appoint as many Assistant State Judge Advocates as  
28 the Adjutant General deems necessary. To be eligible for appointment as an  
29 Assistant State Judge Advocate, an officer must:

30 “(a) Be a member in good standing of the Oregon State Bar; and

1       “(b) Meet the qualifications for a judge advocate under the Uniform Code  
2 of Military Justice, 10 U.S.C. 801 et seq.

3       “(3)(a) The Adjutant General may appoint members of the [*organized*  
4 *militia*] **Oregon National Guard** who are members in good standing of the  
5 Oregon State Bar as temporary Assistant State Judge Advocates. An indi-  
6 vidual appointed as a temporary Assistant State Judge Advocate has 12  
7 months from the date of appointment to meet the qualifications for a judge  
8 advocate under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

9       “(b) A temporary Assistant State Judge Advocate who has met the re-  
10 quirements under this subsection is eligible for appointment as an Assistant  
11 State Judge Advocate.

12       “(c) The Adjutant General may extend, for an additional 12 months, the  
13 time during which a temporary Assistant State Judge Advocate must meet  
14 the qualifications described in paragraph (a) of this subsection.

15       “(4) The State Judge Advocate, the senior Army or Air Force judge ad-  
16 vocate in the [*organized militia*] **Oregon National Guard** or their assistants  
17 shall make frequent inspections in the field for supervision of the adminis-  
18 tration of military justice and general military legal matters.

19       “(5)(a) Convening authorities shall at all times communicate directly with  
20 their judge advocate in matters relating to the administration of military  
21 justice and general military legal matters.

22       “(b) The judge advocate of any command may communicate directly with  
23 the judge advocate of a superior or subordinate command, the State Judge  
24 Advocate or the senior Army or Air Force judge advocate in the [*organized*  
25 *militia*] **Oregon National Guard**.

26       “(6) A person who has acted as member, military judge, trial counsel, as-  
27 sistant trial counsel, defense counsel, assistant defense counsel or investi-  
28 gating officer, or who has been a witness for either the prosecution or  
29 defense in any case, may not later act as judge advocate to any reviewing  
30 authority upon the same case.

1 “(7) A judicial officer, as defined by ORS 1.210, is not prohibited, by rea-  
2 son of holding that office, from:

3 “(a) Performing all acts necessary or incumbent to the authorized exercise  
4 of duties as a judge advocate.

5 “(b) Being assigned as a judge advocate by the Adjutant General as ap-  
6 pointed by the Governor as Commander in Chief under the Oregon Consti-  
7 tution.

8 **“SECTION 31.** ORS 398.406 is amended to read:

9 “398.406. In the [*organized militia*] **Oregon National Guard, the Oregon**  
10 **Civil Defense Force or any additional forces as may be created by the**  
11 **Governor** not in federal service, the processes and sentences of its courts-  
12 martial shall be executed by the civil officers prescribed by the laws of the  
13 state. Where no provision is made for executing those processes and sen-  
14 tences, the process or sentence shall be executed by a United States Marshal  
15 or deputy marshal, who shall make a return to the military officer issuing  
16 the process or the court imposing the sentence, pursuant to section 333 of  
17 title 32, United States Code.

18 **“SECTION 32.** ORS 399.015 is amended to read:

19 “399.015. The ground force of the [*organized militia*] **Oregon National**  
20 **Guard** shall be the Army National Guard and shall be composed of the army  
21 units which are a part of the Oregon National Guard on August 9, 1961, and  
22 such units as may be authorized thereafter, including the personnel who are  
23 enlisted, appointed or commissioned therein. All persons who are members  
24 of the Army National Guard shall be federally recognized as such.

25 **“SECTION 33.** ORS 399.025 is amended to read:

26 “399.025. The air force of the [*organized militia*] **Oregon National Guard**  
27 shall be the Air National Guard and shall be composed of the air force units  
28 which are a part of the Oregon National Guard on August 9, 1961, and such  
29 units as may be authorized thereafter, including the personnel who are en-  
30 listed, appointed or commissioned therein. All persons who are members of

1 the Air National Guard shall be federally recognized as such.

2 **“SECTION 34.** ORS 399.045 is amended to read:

3 “399.045. (1) The forces of the [*organized militia*] **Oregon National**  
4 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
5 **be created by the Governor** shall be organized, armed, disciplined, gov-  
6 erned, administered and trained as prescribed by applicable federal and state  
7 laws and regulations.

8 “(2) It hereby is declared to be the policy of the state that there shall be  
9 an equality of treatment and opportunity for all persons in the [*organized*  
10 *militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
11 **additional forces as may be created by the Governor** without regard to  
12 race, creed, color or national origin.

13 **“SECTION 35.** ORS 399.055 is amended to read:

14 “399.055. Members and units of the [*organized militia*] **Oregon National**  
15 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
16 **be created by the Governor** shall assemble for training and shall partic-  
17 ipate in field training periods and active duty for training periods, maneu-  
18 vers, schools, conferences or other similar duties at such times and places  
19 as are prescribed therefor by applicable federal and state laws and regu-  
20 lations. In addition to these periods, the commander of any organization may  
21 require the officers, warrant officers and enlisted persons of the command  
22 to meet for ceremonies, parades or training at such times and places as the  
23 commander may appoint.

24 **“SECTION 36.** ORS 399.065 is amended to read:

25 “399.065. (1) The Governor shall have the power, in case of invasion, dis-  
26 aster, insurrection, riot, breach of the peace, or imminent danger thereof, to  
27 order into active service of the state for such period, to such extent and in  
28 such manner as the Governor may deem necessary all or any part of the  
29 [*organized militia*] **Oregon National Guard, the Oregon Civil Defense**  
30 **Force or any additional forces as may be created by the Governor.** Such

1 power shall include the power to order the [*organized militia*] **Oregon Na-**  
2 **tional Guard, the Oregon Civil Defense Force or any additional forces**  
3 **as may be created by the Governor**, or any part thereof, to function under  
4 the operational control of the United States Army, Navy or Air Force  
5 commander in charge of the defense of any area within the state which is  
6 invaded or attacked or is or may be threatened with invasion or attack.

7 “(2) The Governor may order into active service of the state for such pe-  
8 riod, to such extent and such manner as the Governor may deem necessary  
9 units or individuals of the [*organized militia*] **Oregon National Guard, the**  
10 **Oregon Civil Defense Force or any additional forces as may be created**  
11 **by the Governor** when in the judgment of the Governor the services of such  
12 units or individuals are required for the furtherance of the organization,  
13 maintenance, discipline or training of the [*organized militia*] **Oregon Na-**  
14 **tional Guard, the Oregon Civil Defense Force or any additional forces**  
15 **as may be created by the Governor** or for ceremonial functions of the  
16 state government.

17 “(3) Whenever any portion of the [*organized militia*] **Oregon National**  
18 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
19 **be created by the Governor** is employed pursuant to this section, the  
20 Governor, if in the judgment of the Governor the maintenance of law and  
21 order will thereby be promoted, may by proclamation declare the county or  
22 city in which the troops are serving, or any specified portion thereof, to be  
23 under martial law.

24 “**SECTION 37.** ORS 399.075 is amended to read:

25 “399.075. (1)(a) The Adjutant General, with the approval of the Governor,  
26 may order members of the [*organized militia*] **Oregon National Guard, the**  
27 **Oregon Civil Defense Force or any additional forces as may be created**  
28 **by the Governor** into active service of the state.

29 “(b) Active service of the state may be for a purpose that includes, but  
30 is not limited to, carrying out state or federal drug interdiction and

1 counter-drug law enforcement activities under a drug interdiction and  
2 counter-drug activities plan approved by the Governor. When participating  
3 in such activities, and to the extent authorized by 32 U.S.C. 112, applicable  
4 regulations of the National Guard Bureau and the drug interdiction and  
5 counter-drug activities plan approved by the Governor, the Oregon Military  
6 Department is designated as a law enforcement agency for the purpose of  
7 carrying out federal asset forfeiture laws only.

8 “(2) A member serving in active service of the state may not receive less  
9 than the pay and allowances of the member’s corresponding grade in the  
10 Armed Forces of the United States in accordance with a schedule approved  
11 by the Adjutant General for the period of time in active service of the state.

12 “(3) When federal funds are authorized to provide for pay and allowances  
13 under this section, state funds may not be used to provide for the pay and  
14 allowances.

15 “(4) Notwithstanding subsection (2) of this section:

16 “(a) A medical examiner may be paid for services and necessary dis-  
17 bursements in an amount approved by the Governor.

18 “(b) An appointed judge advocate may be paid for legal services and nec-  
19 essary disbursements in any suit, action or proceeding in an amount ap-  
20 proved by the Governor.

21 “(c) A member may consent to perform active service of the state without  
22 pay and allowances, provided that the member may, within the discretion of  
23 the Adjutant General, be paid for necessary traveling expenses, subsistence  
24 and per diem allowances.

25 “(5) A member serving on a court-martial, court of inquiry, efficiency  
26 board, medical board or other special duty requiring the member’s absence  
27 from the member’s duty station or business may be reimbursed for actual and  
28 necessary travel or other expenses incurred within the limits established for  
29 state employees by the Oregon Department of Administrative Services under  
30 ORS 292.210 to 292.250.

1 “(6) All pay and allowances, except per diem, mileage and expenses while  
2 traveling under orders, shall be subject to be applied to the payment of:

3 “(a) Penalties and fines imposed by a military court.

4 “(b) Any shortage of or injury to state or United States property or funds  
5 for which a member of the [*organized militia*] **Oregon National Guard, the**  
6 **Oregon Civil Defense Force or any additional forces as may be created**  
7 **by the Governor** is responsible or accountable and where such responsibil-  
8 ity has been fixed by competent authority.

9 “(7)(a) Except as provided in paragraph (b) of this subsection, a member  
10 of the [*organized militia*] **Oregon National Guard, the Oregon Civil De-**  
11 **fense Force or any additional forces as may be created by the Gover-**  
12 **nor** who is ordered to state active duty shall be considered a temporary  
13 employee of the military department.

14 “(b) A member of the [*organized militia*] **Oregon National Guard, the**  
15 **Oregon Civil Defense Force or any additional forces as may be created**  
16 **by the Governor** who is ordered to state active duty is not subject to ORS  
17 chapter 240 and ORS 243.650 to 243.809.

18 “(8) The limitations on employment imposed by ORS 238.082 (2) and (3)  
19 do not apply to a retired member of the Public Employees Retirement System  
20 who is ordered into active service of the state. Hours served by a person  
21 under this subsection shall not be counted for the purpose of the limitations  
22 on employment imposed by ORS 238.082 (2) and (3).

23 **“SECTION 38.** ORS 399.085 is amended to read:

24 “399.085. For all purposes under this chapter and ORS chapters 396 and  
25 398, members of the [*organized militia*] **Oregon National Guard, the**  
26 **Oregon Civil Defense Force or any additional forces as may be created**  
27 **by the Governor** who enter and serve in the active military service of the  
28 United States in time of war under a call or order by the President or who  
29 enter and serve on active duty in the military service of the United States  
30 in time of peace in their status within the National Guard of the United



1 States or Air National Guard of the United States and who thereafter return  
2 to the military service of the state, shall be entitled to credit for time so  
3 served as if such service had been rendered to the state.

4 **“SECTION 39.** ORS 399.115 is amended to read:

5 “399.115. (1) Any person who trespasses upon any armory, arsenal, camp,  
6 range, base or other facility of the [*organized militia*] **Oregon National**  
7 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
8 **be created by the Governor** or other place where any unit of the [*organized*  
9 *militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
10 **additional forces as may be created by the Governor** is performing mil-  
11 itary duty, including training, or who in any way or manner interrupts or  
12 molests the discharge of military duties by any member of the [*organized*  
13 *militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
14 **additional forces as may be created by the Governor** or of the Armed  
15 Forces of the United States or who trespasses or prevents the passage of  
16 troops of the [*organized militia*] **Oregon National Guard, the Oregon Civil**  
17 **Defense Force or any additional forces as may be created by the Gov-**  
18 **ernor** or of the Armed Forces of the United States in the performance of  
19 their military duties may be placed in arrest by the commanding officer, or  
20 the designated representative of the commanding officer, of the unit per-  
21 forming such military duty at the place where the offense is committed and  
22 may be held in arrest during the continuance of the performance of such  
23 military duty, but not to exceed 12 hours.

24 “(2) The commanding officer or the designated representative of the com-  
25 manding officer, of any unit of the [*organized militia*] **Oregon National**  
26 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
27 **be created by the Governor** performing military duty in or at any armory,  
28 arsenal, camp, range, base or other facility of the [*organized militia*] **Oregon**  
29 **National Guard, the Oregon Civil Defense Force or any additional**  
30 **forces as may be created by the Governor** or other place where such unit

1 is performing military duty may prohibit persons who hawk, peddle, vend or  
2 sell goods, wares, merchandise, food products or beverages upon the streets  
3 and highways from conducting sales or auctions, and may prohibit all gam-  
4 bling within the limits of such armory, arsenal, camp, range, base or other  
5 facility of the *[organized militia]* **Oregon National Guard, the Oregon**  
6 **Civil Defense Force or any additional forces as may be created by the**  
7 **Governor** or other place where such unit is performing military duty or  
8 within such limits not exceeding one mile therefrom as the commanding of-  
9 ficer may prescribe. Such commanding officer may in the discretion of the  
10 commanding officer abate as common nuisances all such sales, actions and  
11 gambling.

12 **“SECTION 40.** ORS 399.135 is amended to read:

13 “399.135. The *[organized militia]* **Oregon National Guard, the Oregon**  
14 **Civil Defense Force or any additional forces as may be created by the**  
15 **Governor**, in the performance of its military duties, shall have the right of  
16 way over any persons or vehicles on any public street or highway of this  
17 state, except United States mail carriers, fire apparatus and other emergency  
18 vehicles. *[Any person who hinders or delays, or obstructs, the organized*  
19 *militia in the performance of its military duties, is guilty of a misdemeanor.]*

20 **“SECTION 41.** ORS 399.145 is amended to read:

21 “399.145. Any person belonging to the *[organized militia]* **Oregon Na-**  
22 **tional Guard, the Oregon Civil Defense Force or any additional forces**  
23 **as may be created by the Governor** shall, together with the conveyance  
24 in the charge of the person and the property of the state or the United States  
25 in the charge of the person, be allowed to pass free through all tollgates and  
26 tunnels and over all toll bridges and also over all ferries if the person is in  
27 uniform or presents an order for duty or certificate of an order for duty.

28 **“SECTION 42.** ORS 399.150 is amended to read:

29 “399.150. Oaths and affirmations required in any matter connected with  
30 the military service may be administered by any duly commissioned officer

1 of the [*organized militia*] **Oregon National Guard, the Oregon Civil De-**  
2 **ense Force or any additional forces as may be created by the Gover-**  
3 **nor** or other officer authorized to administer oaths under the laws of the  
4 state, and no charge shall be made nor shall any fee be accepted for such  
5 service.

6 **“SECTION 43.** ORS 399.155 is amended to read:

7 “399.155. No member of the [*organized militia*] **Oregon National Guard,**  
8 **the Oregon Civil Defense Force or any additional forces as may be**  
9 **created by the Governor** shall wear, **without the permission of the**  
10 **commanding officer,** when on or off duty, any uniform or any device, strap,  
11 knot or insignia of any design or character used as a designation of grade,  
12 rank or office, such as are by law or regulation, duly promulgated, prescribed  
13 for the use of the [*organized militia, without the permission of the command-*  
14 *ing officer*] **Oregon National Guard, the Oregon Civil Defense Force or**  
15 **any additional forces as may be created by the Governor.**

16 **“SECTION 44.** ORS 399.205 is amended to read:

17 “399.205. Any member of the [*organized militia*] **Oregon National Guard,**  
18 **the Oregon Civil Defense Force or any additional forces as may be**  
19 **created by the Governor** who is wronged by the commanding officer, and  
20 who, upon due application to that commanding officer, is refused redress,  
21 may complain to any superior commissioned officer, who shall forward the  
22 complaint to the Governor or Adjutant General.

23 **“SECTION 45.** ORS 399.210 is amended to read:

24 “399.210. Any officer or enlisted person of the [*militia*] **Oregon National**  
25 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
26 **be created by the Governor** of this state who receives compensation from  
27 the United States as a federally recognized member of the [*organized*  
28 *militia*] **Oregon National Guard, the Oregon Civil Defense Force or any**  
29 **additional forces as may be created by the Governor** shall not be ineli-  
30 gible by reason thereof to hold lucrative office or seat in the Legislative

1 Assembly within the meaning of [section 10,] Article II, **section 10**, of the  
2 Oregon Constitution.

3 **“SECTION 46.** ORS 399.215 is amended to read:

4 “399.215. Active members of the [*organized militia*] **Oregon National**  
5 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
6 **be created by the Governor** shall be exempt from duty to act as a juror.

7 **“SECTION 47.** ORS 399.225 is amended to read:

8 “399.225. (1) Members of the [*organized militia*] **Oregon National Guard,**  
9 **the Oregon Civil Defense Force or any additional forces as may be**  
10 **created by the Governor** ordered into active service of the state pursuant  
11 to this chapter shall not be liable civilly or criminally for any act or acts  
12 done by them in the performance of their duty. When an action or proceeding  
13 of any nature is commenced in any court by any person against any officer  
14 of the [*militia*] **Oregon National Guard, the Oregon Civil Defense Force**  
15 **or any additional forces as may be created by the Governor** for any act  
16 done by the officer in an official capacity in the discharge of any duty under  
17 this chapter and ORS chapters 396 and 398, or an alleged omission by the  
18 officer to do an act which it was the duty of the officer to perform, or  
19 against any person acting under the authority or order of such officer, or  
20 by virtue of any warrant issued by the officer pursuant to law, the defendant  
21 may require the person instituting or prosecuting the action or proceeding  
22 to file security for the payment of costs that may be awarded to the defend-  
23 ant therein, and the defendant in all cases may make a general denial and  
24 give the special matter in evidence. A defendant in whose favor a final  
25 judgment is rendered in an action or a final order is made in a special pro-  
26 ceeding shall recover the costs of the defendant.

27 “(2) No member of the [*organized militia*] **Oregon National Guard, the**  
28 **Oregon Civil Defense Force or any additional forces as may be created**  
29 **by the Governor** of the state shall be arrested on any civil process while  
30 going to, remaining at, or returning from any place at which the member

1 may be required to attend for military duty.

2 **“SECTION 48.** ORS 399.238 is amended to read:

3 “399.238. (1) As used in this section, ‘service member’ means:

4 “(a) A member of the [*organized militia*] **Oregon National Guard, the**  
5 **Oregon Civil Defense Force or any additional forces as may be created**  
6 **by the Governor** who is called into active service of the state.

7 “(b) A member of the Oregon National Guard who is called into active  
8 service under Title 10 of the United States Code.

9 “(c) A member of the Oregon National Guard who is called into active  
10 service under Title 32 of the United States Code to perform under an au-  
11 thority other than the Governor.

12 “(2) A service member may, while in active service or within one year  
13 after that service ends, apply to a court or an administrative body:

14 “(a) For relief with respect to any obligation or liability incurred by the  
15 member before the period of active service began. The court or administra-  
16 tive body, after appropriate notice and hearing, may grant relief unless the  
17 court or administrative body determines that the ability of the member to  
18 comply with the terms of the obligation or liability has not been materially  
19 affected by active service.

20 “(b) For a stay of a civil or administrative proceeding in which the ser-  
21 vice member is a party. The court or administrative body, after appropriate  
22 notice, shall grant the stay unless the court or administrative body deter-  
23 mines that the ability of the service member to appear is not materially af-  
24 fected by active service.

25 “(3) The court or administrative body may not charge or collect any fee  
26 from a service member who applies to the court or administrative body for  
27 relief under this section.

28 “(4) An application filed under this section may not be deemed as consent  
29 to jurisdiction in any action or proceeding.

30 “(5) The period of a service member’s active service may not be included

1 in computing any period limited by law, rule or order for bringing any action  
2 or proceeding before a court or administrative body for or against the service  
3 member or the service member's heirs, executors, administrators or assigns.

4 **“SECTION 49.** ORS 399.240 is amended to read:

5 “399.240. (1) As used in this section:

6 “(a) ‘Interest’ includes service charges, renewal fees or other charges or  
7 fees associated with an obligation or liability.

8 “(b) ‘Service member’ means:

9 “(A) A member of the [*organized militia*] **Oregon National Guard, the**  
10 **Oregon Civil Defense Force or any additional forces as may be created**  
11 **by the Governor** who is called into active service of the state for 30 or more  
12 consecutive days.

13 “(B) A member of the Oregon National Guard who is called into active  
14 service under Title 10 of the United States Code.

15 “(C) A member of the Oregon National Guard who is called into active  
16 service under Title 32 of the United States Code to perform under an au-  
17 thority other than the Governor for 30 or more consecutive days.

18 “(2) Notwithstanding ORS 82.010, 83.095, 708A.255, 723.502, 723.730 and  
19 725.340, an obligation or liability bearing interest at a rate in excess of six  
20 percent per year incurred by a service member before being called into active  
21 service may not, during any part of the period of active service, bear interest  
22 in excess of six percent per year except by court order.

23 “(3) The service member shall provide written notice to the creditor re-  
24 questing that the rate of interest be reduced to six percent per year and shall  
25 include proof of the official orders showing that the service member is being  
26 called into active service.

27 “(4) A creditor that receives a request under subsection (3) of this section  
28 to reduce a rate of interest may apply to the court for a determination that  
29 the ability of a service member to pay interest on an obligation or liability  
30 at a rate in excess of six percent per year is not materially affected because

1 of the active service of the member. If a court determines that the ability  
2 of a service member to pay interest on an obligation or liability at a rate in  
3 excess of six percent per year is not materially affected because of the active  
4 service of the member, the court may order an interest rate that is just.

5 “(5) A creditor must recompute the payment schedule to amortize the  
6 balance of the obligation or liability over the remainder of the obligation  
7 or liability at a rate of interest determined under subsection (2) or (4) of this  
8 section.

9 **“SECTION 50.** ORS 399.242 is amended to read:

10 “399.242. (1) As used in this section, ‘service member’ means:

11 “(a) A member of the [*organized militia*] **Oregon National Guard, the**  
12 **Oregon Civil Defense Force or any additional forces as may be created**  
13 **by the Governor** who is called into active service of the state for 30 or more  
14 consecutive days.

15 “(b) A member of the Armed Forces of the United States, as that term is  
16 defined in ORS 366.931, who is called into active service under Title 10 of  
17 the United States Code.

18 “(c) A member of the Oregon National Guard who is called into active  
19 service under Title 32 of the United States Code to perform under an au-  
20 thority other than the Governor for 30 or more consecutive days.

21 “(2)(a) Except as provided in subsection (6) of this section, a service  
22 member who has obtained the following services from a telecommunications  
23 service provider, an Internet service provider, a health club as defined in  
24 ORS 431A.450, a health spa as defined in ORS 646A.030 or a provider of  
25 television services may terminate or suspend the provision of services upon  
26 written notice and as provided in paragraph (b) of this subsection:

27 “(A) Telecommunications services.

28 “(B) Internet services.

29 “(C) Health spa services as defined in ORS 646A.030.

30 “(D) Exercise or athletic activities offered by a health club.

1       “(E) Television services, including but not limited to cable television, di-  
2       rect satellite and other television-like services.

3       “(b) The service member must provide proof to the service provider of the  
4       official orders showing that the service member has been called into active  
5       service:

6       “(A) At the time written notice is given; or

7       “(B) If precluded by military necessity or circumstances that make the  
8       provision of proof at the time of giving written notice unreasonable or im-  
9       possible, within 90 days after written notice has been given.

10       “(3) A termination or suspension of services under this section is effective  
11       on the day written notice is given under subsection (2) of this section.

12       “(4)(a) A service member who terminates or suspends the provision of  
13       services under this section and who is no longer in active service may rein-  
14       state the provision of services on the same terms and conditions as originally  
15       agreed to with the service provider before the termination or suspension  
16       upon written notice to the provider that the service member is no longer in  
17       active service. Written notice under this subsection must be given within 90  
18       days after termination of the service member’s active service.

19       “(b) Upon receipt of the written notice of reinstatement, the service pro-  
20       vider shall resume the provision of services or, if the services are no longer  
21       available, provide substantially similar services within a reasonable time not  
22       to exceed 30 days from the date of receipt of the written notice of rein-  
23       statement.

24       “(5) A service member who terminates, suspends or reinstates the pro-  
25       vision of services under this section:

26       “(a) May not be charged a penalty, fee, loss of deposit or any other ad-  
27       ditional cost because of the termination, suspension or reinstatement; and

28       “(b) Is not liable for payment for any services after the effective date of  
29       the termination or suspension, or until the effective date of a reinstatement  
30       of services as described in subsection (4) of this section.



1 “(6) A service member may terminate a contract for any service provided  
2 by a commercial mobile radio services provider in accordance with 50 U.S.C.  
3 535a.

4 **“SECTION 51.** ORS 399.405 is amended to read:

5 “399.405. All commissioned officers of the [*organized militia*] **Oregon**  
6 **National Guard, the Oregon Civil Defense Force or any additional**  
7 **forces as may be created by the Governor** shall be appointed and pro-  
8 moted by the Governor upon recommendation of the Adjutant General.

9 **“SECTION 52.** ORS 399.415 is amended to read:

10 “399.415. (1) No person shall be appointed or promoted as a commissioned  
11 officer of the [*organized militia*] **Oregon National Guard, the Oregon Civil**  
12 **Defense Force or any additional forces as may be created by the Gov-**  
13 **ernor** unless the person has passed such examination as to the physical,  
14 moral and professional qualifications of the person as may be prescribed by  
15 applicable federal and state laws and regulations.

16 “(2) No person shall be recognized as a commissioned officer of the [*or-*  
17 *ganized militia*] **Oregon National Guard, the Oregon Civil Defense Force**  
18 **or any additional forces as may be created by the Governor** and no ap-  
19 pointment as such shall become effective until the person has taken and  
20 subscribed an oath of office as prescribed by applicable federal and state  
21 laws and regulations. Such oath shall be taken and subscribed before an  
22 officer of the [*organized militia*] **Oregon National Guard, the Oregon Civil**  
23 **Defense Force or any additional forces as may be created by the Gov-**  
24 **ernor** authorized to administer oaths as provided in ORS 399.150, or before  
25 a notary public.

26 **“SECTION 53.** ORS 399.420 is amended to read:

27 “399.420. (1) Commissioned officers may be assigned, reassigned, trans-  
28 ferred or detailed to and from units within the [*organized militia*] **Oregon**  
29 **National Guard, the Oregon Civil Defense Force or any additional**  
30 **forces as may be created by the Governor** as prescribed by applicable

1 federal and state laws and regulations.

2 “(2) An officer must reside within reasonable commuting distance of the  
3 station to which the unit of the officer is assigned. The Adjutant General  
4 shall determine what constitutes a reasonable distance in all cases of doubt.

5 **“SECTION 54.** ORS 399.425 is amended to read:

6 “399.425. (1) A commissioned officer of the [*organized militia*] **Oregon**  
7 **National Guard, the Oregon Civil Defense Force or any additional**  
8 **forces as may be created by the Governor** may tender resignation at any  
9 time. Such resignation will be tendered in writing through proper military  
10 channels in accordance with applicable federal and state laws and regu-  
11 lations. Such resignations shall take effect when properly accepted and an-  
12 nounced in orders.

13 “(2) A commissioned officer desiring to accept an appointment or to enlist  
14 in the active Army, Navy, Air Force, Marine Corps or Coast Guard of the  
15 United States or a reserve component thereof shall first obtain a conditional  
16 release from the commander of the officer. Such conditional release shall be  
17 issued in accordance with this chapter and ORS chapters 396 and 398 and  
18 military department regulations, and shall include certification that the of-  
19 ficer is properly cleared of responsibility for all state and United States  
20 property and public money, and that the officer is not indebted to the state  
21 or to the organization to which the officer belongs. An officer so released  
22 shall be considered to have resigned upon presentation of evidence that the  
23 officer has accepted an appointment or enlisted in the force to which re-  
24 leased, and the resignation shall be announced in orders.

25 “(3) No officer shall be allowed to resign a commission who is under ar-  
26 rest, suspension or who is under orders to be returned to any military court  
27 for delinquency.

28 **“SECTION 55.** ORS 399.435 is amended to read:

29 “399.435. (1) The efficiency, moral character and general fitness for re-  
30 tention in the [*organized militia*] **Oregon National Guard, the Oregon**

1 **Civil Defense Force or any additional forces as may be created by the**  
2 **Governor** of any commissioned officer may be investigated and determined  
3 by an efficiency examining board. The members of an efficiency examining  
4 board shall be senior in rank to the officer under investigation unless una-  
5 voidable.

6 “(2) The physical fitness for further service of any commissioned officer  
7 in the [*organized militia*] **Oregon National Guard, the Oregon Civil De-**  
8 **fense Force or any additional forces as may be created by the Gover-**  
9 **nor** may be investigated and determined by a medical examining board of  
10 officers.

11 “(3) Efficiency and medical examining boards shall be appointed by the  
12 Governor upon recommendation of the Adjutant General except that when-  
13 ever an examining board is to be appointed for the purpose of determining  
14 fitness of any officer for continued federal recognition, such board shall be  
15 appointed by the commander designated in the applicable laws of the United  
16 States and the regulations issued thereunder.

17 **“SECTION 56.** ORS 399.445 is amended to read:

18 “399.445. Officers of the [*organized militia*] **Oregon National Guard, the**  
19 **Oregon Civil Defense Force or any additional forces as may be created**  
20 **by the Governor** shall give bonds and security as may be required by the  
21 Adjutant General to secure the state against loss on account of misuse or  
22 misapplication of state or federal property and funds. Such bonds shall be  
23 conditioned upon faithful performance of all duties and the accounting for  
24 all property and funds for which the officer is responsible or accountable.  
25 The Adjutant General may, in lieu of the foregoing, enter into an agreement,  
26 conditioned in like terms and for the same purpose, with a qualified surety  
27 company to bond all officers of the [*organized militia*] **Oregon National**  
28 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
29 **be created by the Governor** without specifically naming them. The premi-  
30 ums on bonds shall be charged to funds appropriated for the support of the

1 *[organized militia]* **Oregon National Guard, the Oregon Civil Defense**  
2 **Force or any additional forces as may be created by the Governor.**

3 **“SECTION 57.** ORS 399.460 is amended to read:

4 “399.460. All commissioned officers and warrant officers of the *[organized*  
5 *militia]* **Oregon National Guard, the Oregon Civil Defense Force or any**  
6 **additional forces as may be created by the Governor**, including retired  
7 officers and warrant officers thereof, may organize themselves into an asso-  
8 ciation, the name of which shall be the Oregon National Guard Association.  
9 The association may adopt bylaws not inconsistent with the statutes of this  
10 state and may alter and amend such bylaws.

11 **“SECTION 58.** ORS 399.505 is amended to read:

12 “399.505. (1) The qualifications for enlistment and reenlistment, the peri-  
13 ods of enlistment, reenlistment and voluntary extension of enlistment, the  
14 period of service, the form of oath to be taken and the manner and form of  
15 transfer and discharge of enlisted personnel of the *[organized militia]*  
16 **Oregon National Guard, the Oregon Civil Defense Force or any addi-**  
17 **tional forces as may be created by the Governor** shall be those prescribed  
18 by applicable federal and state laws and regulations.

19 “(2) The Governor is authorized to extend the period of any enlistment,  
20 reenlistment, voluntary extension of enlistment or the period of service of  
21 enlisted personnel of the Oregon Civil Defense Force for a period not to ex-  
22 ceed six months after the termination of an emergency declared by the Gov-  
23 ernor, the legislature, the President or Congress.

24 “(3) Whenever the period of enlistment, reenlistment, voluntary extension  
25 of enlistment, and the period of service of enlisted personnel of the reserve  
26 components of the Armed Forces of the United States are extended, the  
27 Governor shall extend the period of any enlistment, reenlistment, voluntary  
28 extension of enlistment or the period of service of enlisted personnel in the  
29 corresponding force of the *[organized militia]* **Oregon National Guard, the**  
30 **Oregon Civil Defense Force or any additional forces as may be created**

1 **by the Governor** for the same period.

2 **“SECTION 59.** ORS 399.510 is amended to read:

3 “399.510. Every person who enlists or reenlists in any force of the [*or-*  
4 *ganized militia*] **Oregon National Guard, the Oregon Civil Defense Force**  
5 **or any additional forces as may be created by the Governor** shall sign  
6 an enlistment contract and shall take and subscribe such oath or affirmation  
7 of enlistment as may be prescribed by applicable federal and state laws and  
8 regulations. Such oath shall be taken and subscribed before any commis-  
9 sioned officer or warrant officer of the [*organized militia*] **Oregon National**  
10 **Guard, the Oregon Civil Defense Force or any additional forces as may**  
11 **be created by the Governor** or of any component of the Armed Forces of  
12 the United States. A person making a false oath as to any material statement  
13 contained in such enlistment contract is guilty of perjury and shall be pun-  
14 ished upon conviction as provided by law.

15 **“SECTION 60.** ORS 399.515 is amended to read:

16 “399.515. (1) This section, ORS 398.006, 398.252 and 399.205 and the Oregon  
17 Code of Military Justice as described in ORS 396.128 shall be carefully ex-  
18 plained to:

19 “(a) Every enlisted member at the time of enlistment or transfer or in-  
20 duction into, or at the time of an order to duty in or with any of the forces  
21 of the [*organized militia*] **Oregon National Guard, the Oregon Civil De-**  
22 **fense Force or any additional forces as may be created by the Gover-**  
23 **nor** or within 30 days thereafter; and

24 “(b) Each unit of the [*organized militia*] **Oregon National Guard, the**  
25 **Oregon Civil Defense Force or any additional forces as may be created**  
26 **by the Governor** on an annual basis.

27 “(2) A complete text of ORS chapter 398 and the Oregon Code of Military  
28 Justice, of ORS 399.205 and of the regulations issued by the Adjutant General  
29 under ORS 396.160 and 398.420 shall be made available to any member of the  
30 [*organized militia*] **Oregon National Guard, the Oregon Civil Defense**

1 **Force or any additional forces as may be created by the Governor**, upon  
2 request, for personal examination.

3 **“SECTION 61.** ORS 399.520 is amended to read:

4 “399.520. All noncommissioned officers of the [*organized militia*] **Oregon**  
5 **National Guard, the Oregon Civil Defense Force or any additional**  
6 **forces as may be created by the Governor** shall be appointed in the dis-  
7 cretion of the appointing officer upon the nomination of the officer under  
8 whose immediate command they are to serve. Appointing officers shall be  
9 designated in military department regulations issued pursuant to ORS  
10 396.305. The appointment of a noncommissioned officer may be terminated  
11 as prescribed by such regulations.

12 **“SECTION 62.** ORS 399.525 is amended to read:

13 “399.525. (1) An enlisted person may be discharged from any force of the  
14 [*organized militia*] **Oregon National Guard, the Oregon Civil Defense**  
15 **Force or any additional forces as may be created by the Governor** prior  
16 to the expiration of the term of enlistment under such conditions as may be  
17 prescribed by applicable federal and state laws and regulations.

18 “(2) An enlisted person discharged from a force of the [*organized militia*]  
19 **Oregon National Guard, the Oregon Civil Defense Force or any addi-**  
20 **tional forces as may be created by the Governor** shall receive a discharge  
21 in writing in such form and of such type or classification as may be pre-  
22 scribed by applicable laws and regulations of the United States and by mili-  
23 tary department regulations issued pursuant to this chapter and ORS  
24 chapters 396 and 398.

25 **“SECTION 63.** ORS 399.530 is amended to read:

26 “399.530. When an enlisted person of the [*organized militia*] **Oregon Na-**  
27 **tional Guard, the Oregon Civil Defense Force or any additional forces**  
28 **as may be created by the Governor** absents self without leave and there  
29 is reason to believe that the person does not intend to return, the person  
30 may be discharged in accordance with military department regulations issued

1 pursuant to ORS 396.305.

2 **“SECTION 64.** ORS 402.105 is amended to read:

3 “402.105. The Governor shall participate on behalf of the State of Oregon  
4 with other states legally joining in the compact in a form substantially as  
5 follows:

6 “

---

7 EMERGENCY MANAGEMENT

8 ASSISTANCE COMPACT

9 Article I - Purposes and Authorities

10

11 This compact is made and entered into by and between the participating  
12 member states which enact this compact, hereinafter called party states. For  
13 the purposes of this compact, the term “states” is taken to mean the several  
14 states, the Commonwealth of Puerto Rico, the District of Columbia, and all  
15 U.S. territorial possessions.

16 The purpose of this compact is to provide for mutual assistance between  
17 the states entering into this compact in managing any emergency or disaster  
18 that is duly declared by the Governor of the affected state(s), whether arising  
19 from natural disaster, technological hazard, man-made disaster, civil emer-  
20 gency aspects of resources shortages, community disorders, insurgency, or  
21 enemy attack.

22 This compact shall also provide for mutual cooperation in emergency-  
23 related exercises, testing, or other training activities using equipment and  
24 personnel simulating performance of any aspect of the giving and receiving  
25 of aid by party states or subdivisions of party states during emergencies,  
26 such actions occurring outside actual declared emergency periods. Mutual  
27 assistance in this compact may include the use of the states’ National Guard  
28 forces, either in accordance with the National Guard Mutual Assistance  
29 Compact or by mutual agreement between states.

30

1 Article II - General Implementation

2

3 Each party state entering into this compact recognizes many emergencies  
4 transcend political jurisdictional boundaries and that intergovernmental co-  
5 ordination is essential in managing these and other emergencies under this  
6 compact. Each state further recognizes that there will be emergencies which  
7 require immediate access and present procedures to apply outside resources  
8 to make a prompt and effective response to such an emergency. This is be-  
9 cause few, if any, individual states have all the resources they may need in  
10 all types of emergencies or the capability of delivering resources to areas  
11 where emergencies exist.

12 The prompt, full, and effective utilization of resources of the participating  
13 states, including any resources on hand or available from the Federal Gov-  
14 ernment or any other source, that are essential to the safety, care, and wel-  
15 fare of the people in the event of any emergency or disaster declared by a  
16 party state, shall be the underlying principle on which all articles of this  
17 compact shall be understood.

18 On behalf of the Governor of each state participating in the compact, the  
19 legally designated state official who is assigned responsibility for emergency  
20 management will be responsible for formulation of the appropriate interstate  
21 mutual aid plans and procedures necessary to implement this compact.

22

23 Article III - Party State Responsibilities

24

25 A. It shall be the responsibility of each party state to formulate proce-  
26 dural plans and programs for interstate cooperation in the performance of  
27 the responsibilities listed in this article. In formulating such plans, and in  
28 carrying them out, the party states, insofar as practical, shall:

29 (1) Review individual state hazards analyses and, to the extent reasonably  
30 possible, determine all those potential emergencies the party states might



1 jointly suffer, whether due to natural disaster, technological hazard, man-  
2 made disaster, emergency aspects of resource shortages, civil disorders,  
3 insurgency, or enemy attack.

4 (2) Review party states' individual emergency plans and develop a plan  
5 which will determine the mechanism for the interstate management and  
6 provision of assistance concerning any potential emergency.

7 (3) Develop interstate procedures to fill any identified gaps and to resolve  
8 any identified inconsistencies or overlaps in existing or developed plans.

9 (4) Assist in warning communities adjacent to or crossing the state  
10 boundaries.

11 (5) Protect and assure uninterrupted delivery of services, medicines, wa-  
12 ter, food, energy and fuel, search and rescue, and critical lifeline equipment,  
13 services, and resources, both human and material.

14 (6) Inventory and set procedures for the interstate loan and delivery of  
15 human and material resources, together with procedures for reimbursement  
16 or forgiveness.

17 (7) Provide, to the extent authorized by law, for temporary suspension of  
18 any statutes or ordinances that restrict the implementation of the above re-  
19 sponsibilities.

20 B. The authorized representative of a party state may request assistance  
21 of another party state by contacting the authorized representative of that  
22 state. The provisions of this compact shall only apply to requests for assist-  
23 ance made by and to authorized representatives. Requests may be verbal or  
24 in writing. If verbal, the request shall be confirmed in writing within 30 days  
25 of the verbal request. Requests shall provide the following information:

26 (1) A description of the emergency service function for which assistance  
27 is needed including, but not limited to, fire services, law enforcement, emer-  
28 gency medical, transportation, communications, public works and engineer-  
29 ing, building, inspection, planning and information assistance, mass care,  
30 resource support, health and medical services, and search and rescue.

1 (2) The amount and type of personnel, equipment, materials and supplies  
2 needed, and a reasonable estimate of the length of time they will be needed.

3 (3) The specific place and time for staging of the assisting party's re-  
4 sponse and a point of contact at that location.

5 C. There shall be frequent consultation between state officials who have  
6 assigned emergency management responsibilities and other appropriate rep-  
7 resentatives of the party states with affected jurisdictions and the United  
8 States Government, with free exchange of information, plans, and resource  
9 records relating to emergency capabilities.

10

11

#### Article IV - Limitations

12

13 Any party state requested to render mutual aid or conduct exercises and  
14 training for mutual aid shall take such action as is necessary to provide and  
15 make available the resources covered by this compact in accordance with the  
16 terms hereof; provided that it is understood that the state rendering aid may  
17 withhold resources to the extent necessary to provide reasonable protection  
18 for such state. Each party state shall afford to the emergency forces of any  
19 party state, while operating within its state limits under the terms and con-  
20 ditions of this compact, the same powers except that of arrest unless specif-  
21 ically authorized by the receiving state, duties, rights, and privileges as are  
22 afforded forces of the state in which they are performing emergency services.  
23 Emergency forces will continue under the command and control of their  
24 regular leaders, but the organizational units will come under the operational  
25 control of the emergency services authorities of the state receiving assist-  
26 ance. These conditions may be activated, as needed, only subsequent to a  
27 declaration of a state of emergency or disaster by the Governor of the party  
28 state that is to receive assistance or upon commencement of exercises or  
29 training for mutual aid and shall continue so long as the exercises or  
30 training for mutual aid are in progress, the state of emergency or disaster

1 remains in effect or loaned resources remain in the receiving state(s),  
2 whichever is longer.

3

4

#### Article V - Licenses and Permits

5

6 Whenever any person holds a license, certificate, or other permit issued  
7 by any state party to the compact evidencing the meeting of qualifications  
8 for professional, mechanical, or other skills, and when such assistance is  
9 requested by the receiving party state, such person shall be deemed licensed,  
10 certified, or permitted by the state requesting assistance to render aid in-  
11 volving such skill to meet a declared emergency or disaster, subject to such  
12 limitations and conditions as the Governor of the requesting state may pre-  
13 scribe by executive order or otherwise.

14

15

#### Article VI - Liability

16

17 Officers or employees of a party state rendering aid in another state  
18 pursuant to this compact shall be considered agents of the requesting state  
19 for tort liability and immunity purposes. No party state or its officers or  
20 employees rendering aid in another state pursuant to this compact shall be  
21 liable on account of any act or omission in good faith on the part of such  
22 forces while so engaged or on account of the maintenance or use of any  
23 equipment or supplies in connection therewith. Good faith in this article  
24 shall not include willful misconduct, gross negligence, or recklessness.

25

26

#### Article VII - Supplementary Agreements

27

28 Inasmuch as it is probable that the pattern and detail of the machinery  
29 for mutual aid among two or more states may differ from that among the  
30 states that are party hereto, this compact contains elements of a broad base

1 common to all states, and nothing herein shall preclude any state from en-  
2 tering into supplementary agreements with another state or affect any other  
3 agreements already in force between states. Supplementary agreements may  
4 comprehend, but shall not be limited to, provisions for evacuation and re-  
5 ception of injured and other persons and the exchange of medical, fire, po-  
6 lice, public utility, reconnaissance, welfare, transportation and  
7 communications personnel, and equipment and supplies.

8

9

#### Article VIII - Compensation

10

11 Each party state shall provide for the payment of compensation and death  
12 benefits to injured members of the emergency forces of that state and repre-  
13 sentatives of deceased members of such forces in case such members sustain  
14 injuries or are killed while rendering aid pursuant to this compact, in the  
15 same manner and on the same terms as if the injury or death were sustained  
16 within their own state.

17

18

#### Article IX - Reimbursement

19

20 Any party state rendering aid in another state pursuant to this compact  
21 shall be reimbursed by the party state receiving such aid for any loss or  
22 damage to or expense incurred in the operation of any equipment and the  
23 provision of any service in answering a request for aid and for the costs in-  
24 curred in connection with such requests; provided, that any aiding party  
25 state may assume in whole or in part such loss, damage, expense, or other  
26 cost, or may loan such equipment or donate such services to the receiving  
27 party state without charge or cost; and provided further, that any two or  
28 more party states may enter into supplementary agreements establishing a  
29 different allocation of costs among those states. Article VIII expenses shall  
30 not be reimbursable under this provision.

1 Article X - Evacuation

2

3 Plans for the orderly evacuation and interstate reception of portions of  
4 the civilian population as the result of any emergency or disaster of suffi-  
5 cient proportions to so warrant, shall be worked out and maintained between  
6 the party states and the emergency management/services directors of the  
7 various jurisdictions where any type of incident requiring evacuations might  
8 occur. Such plans shall be put into effect by request of the state from which  
9 evacuees come and shall include the manner of transporting such evacuees,  
10 the number of evacuees to be received in different areas, the manner in  
11 which food, clothing, housing, and medical care will be provided, the regis-  
12 tration of the evacuees, the providing of facilities for the notification of  
13 relatives or friends, and the forwarding of such evacuees to other areas or  
14 the bringing in of additional materials, supplies, and all other relevant fac-  
15 tors. Such plans shall provide that the party state receiving evacuees and the  
16 party state from which the evacuees come shall mutually agree as to re-  
17 imbursement of out-of-pocket expenses incurred in receiving and caring for  
18 such evacuees, for expenditures for transportation, food, clothing, medicines  
19 and medical care, and like items. Such expenditures shall be reimbursed as  
20 agreed by the party state from which the evacuees come. After the termi-  
21 nation of the emergency or disaster, the party state from which the evacuees  
22 come shall assume the responsibility for the ultimate support of repatriation  
23 of such evacuees.

24

25 Article XI - Implementation

26

27 A. This compact shall become operative immediately upon its enactment  
28 into law by any two (2) states; thereafter, this compact shall become effective  
29 as to any other state upon its enactment by such state.

30 B. Any party state may withdraw from this compact by enacting a statute

1 repealing the same, but no such withdrawal shall take effect until 30 days  
2 after the Governor of the withdrawing state has given notice in writing of  
3 such withdrawal to the Governors of all other party states. Such action shall  
4 not relieve the withdrawing state from obligations assumed hereunder prior  
5 to the effective date of withdrawal.

6 C. Duly authenticated copies of this compact and of such supplementary  
7 agreements as may be entered into shall, at the time of their approval, be  
8 deposited with each of the party states and with the Federal Emergency  
9 Management Agency and other appropriate agencies of the United States  
10 Government.

11

## 12 Article XII - Validity

13

14 This compact shall be construed to effectuate the purposes stated in Ar-  
15 ticle I hereof. If any provision of this compact is declared unconstitutional,  
16 or the applicability thereof to any person or circumstances is held invalid,  
17 the constitutionality of the remainder of this compact and the applicability  
18 thereof to other persons and circumstances shall not be affected thereby.

19

## 20 Article XIII - Additional Provisions

21

22 Nothing in this compact shall authorize or permit the use of military  
23 force by the National Guard of a state at any place outside that state in any  
24 emergency for which the President is authorized by law to call into federal  
25 service the [*militia*] **National Guard as defined in 10 U.S.C. 101(c)**, or for  
26 any purpose for which the use of the Army or the Air Force would in the  
27 absence of express statutory authorization be prohibited under 18 U.S.C.  
28 1385.

29 “

---

30 **“SECTION 65.** ORS 480.111 is amended to read:

1 “480.111. As used in ORS 480.111 to 480.165:

2 “(1) ‘Cone fountain’ means a cardboard or heavy paper cone that:

3 “(a) Contains 50 grams or less of pyrotechnic composition;

4 “(b) If mounted on a common base with other cones having less than  
5 one-half inch of separation, results, when measured in combination with all  
6 other cones on the base, in a total pyrotechnic composition of not more than  
7 200 grams;

8 “(c) If mounted on a common base with other cones having at least one-  
9 half inch of separation, results, when measured in combination with all other  
10 cones on the base, in a total pyrotechnic composition of not more than 500  
11 grams; and

12 “(d) Upon ignition has the same effect as a cylindrical fountain.

13 “(2) ‘Consumer fireworks’ means:

14 “(a) A cone fountain, a cylindrical fountain, a flitter sparkler, a ground  
15 spinner, an illuminating torch or a wheel, or a combination of two or more  
16 of those items; and

17 “(b) Any other items, other than exempt fireworks, containing 500 grams  
18 or less of pyrotechnic composition that the State Fire Marshal recognizes  
19 by rule to be suitable for retail sale to members of the general public for  
20 individual use.

21 “(3) ‘Cylindrical fountain’ means a cylindrical tube that:

22 “(a) Contains 75 grams or less of pyrotechnic composition;

23 “(b) If mounted on a common base with other tubes having less than  
24 one-half inch of separation, results, when measured in combination with all  
25 other tubes on the base, in a total pyrotechnic composition of not more than  
26 200 grams;

27 “(c) If mounted on a common base with other tubes having at least one-  
28 half inch of separation, results, when measured in combination with all other  
29 tubes on the base, in a total pyrotechnic composition of not more than 500  
30 grams;

1 “(d) Upon ignition produces a shower of colored sparks and may produce  
2 a whistling effect; and

3 “(e) Is provided with a means for restraining the behavior of the item,  
4 such as a spike for insertion into the ground, a wood or plastic base for  
5 placing on the ground or, if designed to be handheld, a wood or cardboard  
6 handle.

7 “(4) ‘Display fireworks’ means pyrotechnic devices that:

8 “(a) Are designed for travel into the air or to project effects from a fixed  
9 position; and

10 “(b)(A) Are classified by the United States Department of Transportation  
11 as Division 1.3 compatibility group G explosives or Division 1.4 compatibility  
12 group G explosives; or

13 “(B) Contain more than 500 grams of pyrotechnic composition and are  
14 classified by the United States Department of Transportation as Division 1.4  
15 compatibility group E or S explosives.

16 “(5) ‘Exempt fireworks’ means the following:

17 “(a) Paper caps containing 0.25 grains or less of explosive mixture and toy  
18 guns, canes or other devices designed for firing those caps.

19 “(b) Snakes or similar smoke-producing items containing 100 grains or  
20 less of combustible substances.

21 “(c) Model rockets and model rocket motors that are used to propel re-  
22 coverable models of rocket.

23 “(d) Novelties and trick noisemakers.

24 “(e) Emergency signaling devices, if used in railroad, boat, motor vehicle  
25 or other means of transportation for warning or illumination purposes.

26 “(f) Blank cartridges of a type used:

27 “(A) For theater or other shows;

28 “(B) For signaling or ceremonial purposes in athletics or sports; or

29 “(C) By the [*militia*] **Oregon National Guard, as described in ORS**  
30 **396.105, the Oregon Civil Defense Force, as described in ORS 399.035,**



1 **any additional forces as may be created by the Governor**, an organiza-  
2 tion of war veterans or other organizations, if parading an armed color  
3 guard.

4 “(g) Cartridges, shells or gunpowder for use in legally permitted types of  
5 firearms.

6 “(h) Military pyrotechnic and signaling devices classified by the United  
7 States Department of Transportation as Division 1.4 compatibility group S  
8 explosives that are assigned to and in the possession of the Armed Forces  
9 of the United States, or an authorized agent of the armed forces, as inventory  
10 for use by the armed forces or agent in training active members of the armed  
11 forces in their duties.

12 “(i) Other items that in the judgment of the State Fire Marshal do not  
13 require regulation or restrictions on sale.

14 “(6) ‘Explosive mixture’ means a substance arranged in a manner to allow  
15 burning in less than one second.

16 “(7)(a) ‘Fireworks’ means:

17 “(A) Consumer fireworks;

18 “(B) Display fireworks;

19 “(C) Exempt fireworks;

20 “(D) Pyrotechnic articles;

21 “(E) Special effects; and

22 “(F) Other pyrotechnic devices that:

23 “(i) Are capable of producing audible, visual, mechanical or thermal ef-  
24 fects through combustion, deflagration or detonation; and

25 “(ii) Contain chemical elements and compounds that are capable of burn-  
26 ing independently of atmospheric oxygen or contain flammable liquid mix-  
27 tures or flammable gas mixtures.

28 “(b) ‘Fireworks’ does not mean a candle, flaming club, flaming baton or  
29 other device that is designed to keep the flame and thermal radiation in close  
30 proximity to the device.

1 “(8) ‘Fireworks display’ means an entertainment feature at which the  
2 public or a private group is allowed to view a display or discharge that uses  
3 or explodes display fireworks or pyrotechnic articles.

4 “(9) ‘Flutter sparkler’ means a narrow paper tube that:

5 “(a) Contains five grams or less of pyrotechnic composition;

6 “(b) Produces colored sparks upon ignition; and

7 “(c) Is activated by igniting paper located at one end of the tube.

8 “(10) ‘Ground spinner’ means a small device similar to a wheel in design  
9 and effect that:

10 “(a) Contains 20 grams or less of pyrotechnic composition;

11 “(b) Vents from an orifice located on the side of the tube or elsewhere  
12 on the device; and

13 “(c) When placed on the ground and ignited, spins rapidly and produces  
14 a shower of colored sparks.

15 “(11) ‘Illuminating torch’ means a cylindrical tube that:

16 “(a) Contains 100 grams or less of pyrotechnic composition; and

17 “(b) Is provided with a means for restraining the behavior of the item,  
18 such as a spike for insertion into the ground, a wood or plastic base for  
19 placing on the ground or, if designed to be handheld, a wood or cardboard  
20 handle.

21 “(12) ‘Local government’ has the meaning given that term in ORS 174.116.

22 “(13)(a) ‘Manufacture’ means to make, construct, fabricate or produce  
23 fireworks.

24 “(b) ‘Manufacture’ does not mean:

25 “(A) The assembly or fabrication of sets or mechanical pieces for fire-  
26 works displays; or

27 “(B) Actions taken within the scope of a certification for conducting  
28 fireworks displays or for a pyrotechnics operator.

29 “(14) ‘Pyrotechnic articles’ means devices that:

30 “(a) Are designed for professional use;

1 “(b) Are similar to consumer fireworks in chemical composition and con-  
2 struction;

3 “(c) Contain 500 grams or less of pyrotechnic composition;

4 “(d) Are not labeled as consumer fireworks; and

5 “(e) Have identification numbers UN0431 or UN0432 in the United States  
6 Department of Transportation Hazardous Materials Table set forth in 49  
7 C.F.R. 172.101 or an amendment or replacement of that identification stand-  
8 ard recognized by the State Fire Marshal.

9 “(15) ‘Pyrotechnic composition’ means a mixture that is:

10 “(a) Composed of a metal powder having a high combustion temperature  
11 and an oxidant; and

12 “(b) Capable of an exothermic reaction that produces light, heat, smoke,  
13 sound or gas.

14 “(16) ‘Pyrotechnic device’ means consumer fireworks, display fireworks,  
15 pyrotechnic articles, special effects and bird and animal control devices, and  
16 other combinations or compositions of materials, that produce audible, vis-  
17 ual, mechanical or thermal effects.

18 “(17) ‘Special effects’ means articles containing pyrotechnic composition  
19 that, subject to authorization from the appropriate jurisdiction, are:

20 “(a) Manufactured, assembled, designed or discharged in connection with  
21 television, theater or motion picture productions, concerts or conference  
22 centers; or

23 “(b) Used for commercial, industrial, educational, recreational or enter-  
24 tainment purposes.

25 “(18) ‘Wheel’ means a pyrotechnic device that:

26 “(a) Is designed to be attached to a post or tree by means of a nail or  
27 string;

28 “(b) Has one or more driver units or tubes, each containing not more than  
29 60 grams of pyrotechnic composition;

30 “(c) Contains a total of not more than 200 grams of pyrotechnic compo-

1 sition; and

2 “(d) Upon ignition revolves and produces a shower of colored sparks and  
3 may produce a whistling effect.

4 **“SECTION 66.** ORS 480.120 is amended to read:

5 “480.120. (1) No person shall sell, keep or offer for sale, expose for sale,  
6 possess, use, explode or have exploded any fireworks within Oregon, except  
7 as follows:

8 “(a) Sales by manufacturers and wholesalers to customers residing outside  
9 this state in accordance with ORS 480.156;

10 “(b) Sales to persons or organizations having obtained a permit from the  
11 State Fire Marshal for supervised public display;

12 “(c) Sales to railroads, boats, motor vehicle or other transportation  
13 agencies, to be used for signal, warning or illumination purposes in con-  
14 nection with such business;

15 “(d) Sale or use of blank cartridges for licensed shows or theaters or for  
16 signal or ceremonial purposes in athletics or sports;

17 “(e) Experimental purposes by a manufacturer of explosives at such places  
18 where such experiments are normally conducted;

19 “(f) Sale of blank cartridges for use by the [*militia*] **Oregon National**  
20 **Guard, as described in ORS 396.105, the Oregon Civil Defense Force,**  
21 **as described in ORS 399.035, any additional forces as may be created**  
22 **by the Governor** or any organization of war veterans or other organization  
23 authorized by law to parade in public a color guard armed with firearms;

24 “(g) Sale of shells, cartridges, gunpowder or explosives for use in legally  
25 permitted firearms;

26 “(h) Sales of items described in ORS 480.127 to persons who possess the  
27 retail sales permit required by ORS 480.127 by a person who holds a man-  
28 ufacturer or wholesaler license issued pursuant to ORS 480.111 to 480.165;  
29 or

30 “(i) Sales of items described in ORS 480.127 to individual members of the

1 general public for personal use by taking direct delivery of those items at  
2 the time of sale from the holder of a retail sale permit issued pursuant to  
3 ORS 480.127.

4 “(2) Law enforcement officers of the state, county or municipality shall  
5 enforce the provisions of ORS 480.111 to 480.165.

6 **“SECTION 67.** ORS 653.269 is amended to read:

7 “653.269. The provisions of ORS 653.268 relating to pay for overtime shall  
8 not apply to:

9 “(1) Labor employed in forest fire fighting.

10 “(2) Employees of any irrigation system district actually engaged in the  
11 distribution of water for irrigation or domestic use.

12 “(3) Employees of a public employer, as defined in ORS 243.650, who are  
13 employed in fire protection or law enforcement activities, including security  
14 personnel in corrections institutions, as those employees and activities are  
15 defined by rule of the Commissioner of the Bureau of Labor and Industries.

16 “(4) Employees of a people’s utility district organized under ORS chapter  
17 261.

18 “(5) Employees exempted from overtime:

19 “(a) By a public employer as defined in ORS 243.650 because of the exec-  
20 utive, administrative, supervisory or professional nature of their employment  
21 as the nature of such employment is defined by rule of the Commissioner of  
22 the Bureau of Labor and Industries; or

23 “(b) By a collective bargaining agreement expressly waiving application  
24 of ORS 653.268.

25 “(6) Employees of a public employer as defined in ORS 243.650 engaged  
26 in the operation of a hospital or an establishment that is an institution pri-  
27 marily engaged in the care of persons who are sick or aged or have mental  
28 illness or mental retardation and who reside on the premises if, before per-  
29 formance of the work and pursuant to an agreement between the employer  
30 and employee or between the employer and the bargaining representative of

1 the employees when the employees are represented under a collective bar-  
2 gaining agreement, a work period of 14 consecutive days is accepted in lieu  
3 of the workweek of seven consecutive days for purposes of overtime compu-  
4 tation and if, for the employee's employment in excess of eight hours in any  
5 workday and in excess of 80 hours in such 14-day period, the employee re-  
6 ceives compensation at a rate not less than one and one-half times the rate  
7 at which the employee is employed.

8 “(7) Members of the [*organized militia*] **Oregon National Guard, as de-**  
9 **scribed in ORS 396.105, the Oregon Civil Defense Force, as described**  
10 **in ORS 399.035, or any additional forces as may be created by the**  
11 **Governor** while in active service of the state in accordance with ORS  
12 399.075.

13 **“SECTION 68.** ORS 657.150 is amended to read:

14 “657.150. (1) An individual shall be paid benefits for weeks during the  
15 benefit year in an amount that is to be determined by taking into account  
16 the individual's work in subject employment in the base year as provided in  
17 this section.

18 “(2)(a) To qualify for benefits an individual must have:

19 “(A) Worked in subject employment in the base year with total base year  
20 wages of \$1,000 or more and have total base year wages equal to or in excess  
21 of one and one-half times the wages in the highest quarter of the base year;  
22 and

23 “(B) Have earned wages in subject employment equal to six times the  
24 individual's weekly benefit amount in employment for service performed  
25 subsequent to the beginning of a preceding benefit year if benefits were paid  
26 to the individual for any week in the preceding benefit year.

27 “(b) If the individual does not meet the requirements of paragraph (a)(A)  
28 of this subsection, the individual may qualify for benefits if the individual  
29 has worked a minimum of 500 hours in employment subject to this chapter  
30 during the base year.

1       “(3) If the wages paid to an individual are not based upon a fixed period  
2 of time or if wages are paid at irregular intervals or in such manner as not  
3 to extend regularly over the period of employment, for the purposes of sub-  
4 sections (2) to (5) of this section, the individual’s wages shall be allocated  
5 in accordance with rules prescribed by the Director of the Employment De-  
6 partment. Such rules shall, insofar as possible, produce results the same as  
7 those that would exist if the individual had been paid wages at regular in-  
8 tervals. The director may adopt rules to attribute hours of work to an indi-  
9 vidual if the individual is not paid on an hourly basis or if the employer does  
10 not report the number of hours worked.

11       “(4)(a) An eligible individual’s weekly benefit amount shall be 1.25 per-  
12 cent of the total wages paid in the individual’s base year. However, such  
13 amount shall not be less than the minimum, nor more than the maximum  
14 weekly benefit amount.

15       “(b) The minimum weekly benefit amount shall be 15 percent (0.1500) of  
16 the state average weekly covered wage for the preceding calendar year, ef-  
17 fective for any benefit year commencing on and after the week that includes  
18 July 4, 1975, and the week that includes each July 4 thereafter.

19       “(c) The maximum weekly benefit amount shall be:

20       “(A) Fifty-five percent (0.5500) of the state average weekly covered wage  
21 for calendar year 1979, effective for any benefit year commencing with and  
22 after the week that includes July 4, 1980, and through any benefit year  
23 commencing with the week that includes June 27, 1981.

24       “(B) Fifty-five percent (0.5500) of the state average weekly covered wage  
25 for calendar year 1980, effective for any benefit year commencing with and  
26 after the week that includes July 4, 1981, through any benefit year com-  
27 mencing with the week that includes September 27, 1981.

28       “(C) Fifty-eight percent (0.5800) of the state average weekly covered wage  
29 for calendar year 1980, effective for any benefit year commencing with and  
30 after the week that includes October 4, 1981, through any benefit year com-

1 mencing with the week that includes June 27, 1982.

2 “(D) Sixty percent (0.6000) of the state average weekly covered wage for  
3 calendar year 1981, effective for any benefit year commencing with and after  
4 the week that includes July 4, 1982, through any benefit year commencing  
5 with the week that includes June 27, 1983.

6 “(E) Sixty-four percent (0.6400) of the state average covered weekly wage  
7 for the preceding calendar year, effective for any benefit year commencing  
8 with and after the week that includes July 4, 1983, and the week that in-  
9 cludes each July 4 thereafter.

10 “(d) All weekly benefit amounts, if not a multiple of \$1, shall be computed  
11 to the next lower multiple of \$1.

12 “(e) For the purposes of this subsection, the state average weekly covered  
13 wage means an amount determined by the Employment Department by di-  
14 viding the total wages paid by subject employers during the year by 52 times  
15 the average monthly employment reported by subject employers for the year.

16 “(5) Benefits paid to an eligible individual in a benefit year shall not ex-  
17 ceed 26 times the individual’s weekly benefit amount, or one-third of the base  
18 year’s wages paid, whichever is the lesser. If such amount is not a multiple  
19 of \$1, it shall be computed to the next lower multiple of \$1.

20 “(6) An eligible unemployed individual who has employment in any week  
21 shall have the individual’s weekly benefit amount reduced, but not below  
22 zero, by the amount of earnings paid or payable that exceeds the greater of:

23 “(a) Ten times the minimum hourly wage established by the laws of this  
24 state; or

25 “(b) One-third of the individual’s weekly benefit amount.

26 “(7) Payment that has been, is or will be paid to an individual for a hol-  
27 iday or vacation shall be considered as earnings in the determination of the  
28 amount of benefits payable with respect to the week in which the holiday  
29 or vacation falls in the same manner as provided in subsection (6) of this  
30 section. However, if payment for the holiday or vacation is paid more than



1 45 days prior to the holiday or vacation or is delayed more than 45 days  
2 following the end of the week in which the holiday or vacation falls, the  
3 provisions of this section do not apply and previously reduced benefits shall  
4 be adjusted accordingly.

5 “(8) Payment that has been or is paid to an individual as back pay shall  
6 be considered as earnings in the determination of the amount of benefits  
7 payable with respect to the period for which the back pay has been or is  
8 paid.

9 “(9) Payment that has been, or will be, made to an individual as a member  
10 of a reserve component of the Armed Forces of the United States, including  
11 the [*organized militia of the State of Oregon*] **Oregon National Guard as**  
12 **described in ORS 396.105**, for the performance of inactive duty training  
13 shall not be considered as earnings in the determination of the amount of  
14 benefits payable.

15 **“SECTION 69.** ORS 659A.086 is amended to read:

16 “659A.086. (1) An employee shall be granted a leave of absence by the  
17 employer of the employee to perform active state service if:

18 “(a) The employee is a member of the [*organized militia of this state*]  
19 **Oregon National Guard, as described in ORS 396.105, the Oregon Civil**  
20 **Defense Force, as described in ORS 399.035, or any additional forces**  
21 **as may be created by the Governor** and is called into active service of the  
22 state under ORS 399.065 or 399.075.

23 “(b) The employee is a member of the [*organized militia*] **National Guard,**  
24 **as defined in 10 U.S.C. 101(c)**, of another state and is called into active  
25 state service by the Governor of the respective state.

26 “(2) The employer shall grant the employee a leave of absence until re-  
27 lease from active state service permits the employee to resume the duties of  
28 employment. The regular employment position of an employee on a leave of  
29 absence for active state service under this section is considered vacant only  
30 for the period of the leave of absence. The employee is not subject to removal

1 or discharge from the position as a consequence of the leave of absence.

2 “(3) Upon the termination of the leave of absence for active state service,  
3 an employee shall:

4 “(a) Resume the duties of employment within seven calendar days; and

5 “(b) Be restored to the employee’s position or an equivalent position by  
6 the employer without loss of seniority, vacation credits, sick leave credits,  
7 service credits under a pension plan or any other employee benefit or right  
8 that had been earned at the time of the leave of absence.

9 “(4) An employer is not required to pay wages or other monetary com-  
10 pensation to an employee during a leave of absence required under sub-  
11 section (1) of this section.

12 “(5) Notwithstanding subsection (4) of this section:

13 “(a) The State of Oregon shall continue coverage under an employer-  
14 sponsored health plan to an employee of the State of Oregon and any other  
15 individual provided coverage under the employee’s plan on the day before the  
16 date the employee goes on leave for a period not exceeding a total of 12  
17 months during a leave of absence required under subsection (1) of this sec-  
18 tion.

19 “(b) An employer other than the State of Oregon may continue coverage  
20 under an employer-sponsored health plan to an employee and any other in-  
21 dividual provided coverage under the employee’s plan on the day before the  
22 date the employee goes on leave during a leave of absence required under  
23 subsection (1) of this section.

24 “(6)(a) Notwithstanding subsection (4) of this section, the State of Oregon,  
25 a county, a municipality or other political subdivision of this state may es-  
26 tablish and administer a donated leave program that:

27 “(A) Allows an employee who is on a leave of absence required under  
28 subsection (1) of this section to receive donated leave; and

29 “(B) Allows an employee to voluntarily donate vacation time to an eligi-  
30 ble employee on a leave of absence required under subsection (1) of this

1 section.

2 “(b) An employee who is on a leave of absence required under subsection  
3 (1) of this section and who receives donated leave under paragraph (a) of this  
4 subsection may receive an amount of donated leave that supplements any pay  
5 received as a member of the [*organized militia*] **Oregon National Guard,**  
6 **as described in ORS 396.105, the Oregon Civil Defense Force, as de-**  
7 **scribed in ORS 399.035, any additional forces as may be created by the**  
8 **Governor or the National Guard of any other state,** but may not receive  
9 more than the amount the employee was earning in total compensation on  
10 the date the employee began the leave of absence.

11 “(7) For the purpose of calculating total compensation under subsection  
12 (6) of this section, the State of Oregon, a county, a municipality or other  
13 political subdivision of this state shall:

14 “(a) Include any amounts attributable to hours of overtime that equal the  
15 average number of hours of overtime for the same employee class;

16 “(b) Determine the average number of hours of overtime for an employee  
17 class based on a reasonable expectation of the average number of hours of  
18 overtime employees in that class would perform over the course of a calendar  
19 year; and

20 “(c) Maintain records of the average number of hours of overtime for each  
21 employee class for each calendar year.

22 “(8) As used in this section:

23 “(a) ‘Active service of the state’ has the meaning given that term in ORS  
24 396.005.

25 “(b) ‘Employee’ means any individual, other than a copartner of the em-  
26 ployer or an independent contractor, who renders personal services in this  
27 state to an employer who pays or agrees to pay wages or other compensation  
28 to the individual for those services.

29 “(c) ‘Employee class’ means a group of similarly situated employees whose  
30 positions have been designated by their employer in a policy or a collective

1 bargaining agreement as having common characteristics.

2 “(d) ‘Employer’ means any person who employs one or more employees in  
3 this state. The term includes the State of Oregon or any county, city, dis-  
4 trict, authority, public corporation or entity and any of their instrument-  
5 alities organized and existing under law or charter, but does not include the  
6 federal government.

7 “(e) ‘Total compensation’ means the total of an employee’s base salary,  
8 differentials and overtime.”.

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