CHAPTER 3

South Carolina State Guard

**SECTION 25‑3‑10.** Establishment of South Carolina State Guard.

 A South Carolina State Guard is hereby established. Such force shall be additional to and distinct from the National Guard and shall be known as the South Carolina State Guard. The Adjutant General shall organize and maintain within the State, under such regulations as the Secretary of the Army may prescribe for discipline and training, the South Carolina State Guard with such table of organization and equipment as the Adjutant General may deem necessary.

HISTORY: 1962 Code Section 44‑251; 1952 Code Section 44‑251; 1950 (46) 1881; 1981 Act No. 145, Section 1; 1982 Act No. 466, Part II, Section 30.

CROSS REFERENCES

Application of provisions of State Accident Fund to State Guard and National Guard, see Section 42‑7‑40.

Exception to the waiver of governmental immunity for losses resulting from emergency preparedness activities of the South Carolina State Guard, see Section 15‑78‑60.

When member of South Carolina State or National Guard is deemed an “employee” for purposes of the Workmen’s Compensation Law, see Section 42‑1‑130.

Library References

Militia 3.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341 to 342.

**SECTION 25‑3‑20.** Governor may call State Guard into duty.

 Whenever any part of the National Guard of this State is ordered into Federal service so as to cause the State to be, in the opinion of the Governor, without proper defense, the Governor may call the South Carolina State Guard into state duty.

HISTORY: 1962 Code Section 44‑252; 1952 Code Section 44‑252; 1950 (46) 1881; 1981 Act No. 145 Section 2.

Library References

States 43.

Westlaw Topic No. 360.

C.J.S. States Sections 174, 240 to 242.

**SECTION 25‑3‑30.** Composition.

 Such force shall be composed of officers, commissioned or assigned, and enlisted persons as shall volunteer for service therein.

HISTORY: 1962 Code Section 44‑253; 1952 Code Section 44‑253; 1950 (46) 1881; 1982 Act No. 467, Section 1.

Library References

Militia 5 to 9.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 343 to 344.

**SECTION 25‑3‑40.** Qualifications for commission or enlistment.

 In order to be commissioned or enlisted in such force, a person must meet the following qualifications:

 (a) be a citizen of the United States or a person who has declared an intention to become a citizen of the United States;

 (b) have not been dishonorably discharged from any military or naval organization of this State, another state, or the United States;

 (c) be at least seventeen years old.

 In carrying out the provisions of this chapter, preference shall be accorded veterans of former wars so far as may be consistent with the public interest and both males and females may serve in such force as officers and as enlisted persons.

HISTORY: 1962 Code Section 44‑254; 1952 Code Section 44‑254; 1950 (46) 1881; 1982 Act No. 467, Section 2; 1995 Act No. 59, Section 1.

Library References

Militia 5 to 9.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 343 to 344.

**SECTION 25‑3‑50.** Civil organization, society or club enlisted as unit.

 No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league or other combination of persons or civil group shall be enlisted in such force as an organization or unit.

HISTORY: 1962 Code Section 44‑255; 1952 Code Section 44‑255; 1950 (46) 1881.

Library References

Militia 8.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 343.

**SECTION 25‑3‑60.** Officers’ oath.

 The oath to be taken by officers commissioned in such force shall be substantially in the form prescribed for officers of the National Guard, substituting the words “South Carolina State Guard” where necessary.

HISTORY: 1962 Code Section 44‑256; 1952 Code Section 44‑256; 1950 (46) 1881.

CROSS REFERENCES

Prohibition against holding two offices not applying to officers in the militia, see SC Const, Art 17, Section 1A.

Library References

Militia 8.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 343.

**SECTION 25‑3‑70.** Term of enlistment; oath.

 No person shall be enlisted for more than three years, but such enlistment may be extended or renewed for additional periods of up to three years upon the consent of the State Guard and the enlisted person. The oath to be taken upon enlistment in such force shall be substantially in the form prescribed for enlisted persons of the National Guard substituting the words “South Carolina State Guard” where necessary.

HISTORY: 1962 Code Section 44‑257; 1952 Code Section 44‑257; 1950 (46) 1881; 1982 Act No. 320, Section 1.

Library References

Militia 9.

Westlaw Topic No. 259.

C.J.S. Armed Services Section 341.

**SECTION 25‑3‑80.** Regulations governing enlistment, organization and administration.

 The Governor may prescribe rules and regulations consistent with the provisions of this chapter governing the enlistment, organization, administration, equipment, maintenance, training and discipline of such force. But such rules and regulations in so far as he deems practicable and desirable shall conform to the existing law governing and pertaining to the National Guard and the rules and regulations promulgated thereunder.

HISTORY: 1962 Code Section 44‑258; 1952 Code Section 44‑258; 1950 (46) 1881.

Library References

Militia 3.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341 to 342.

**SECTION 25‑3‑90.** Duties of Adjutant and Inspector General.

 The duties of the Adjutant and Inspector General in connection with the South Carolina State Guard shall be the same as those prescribed for him by Section 25‑1‑350 with respect to the National Guard.

HISTORY: 1962 Code Section 44‑259; 1952 Code Section 44‑259; 1950 (46) 1881.

CROSS REFERENCES

Advice to the Adjutant General from the Attorney General, see Section 1‑7‑110.

Library References

Militia 7.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 344.

**SECTION 25‑3‑100.** Uniforms.

 The South Carolina State Guard may be uniformed as the Governor may prescribe.

HISTORY: 1962 Code Section 44‑260; 1952 Code Section 44‑260; 1950 (46) 1881.

Library References

Militia 13.

Westlaw Topic No. 259.

C.J.S. Armed Services Section 341.

**SECTION 25‑3‑110.** Equipment and property for use of force.

 For the use of such force the Governor may requisition from the Secretary of the Army such arms and equipment as may be in possession of, and can be spared by, the Department of the Army and may make available to such force the facilities of State armories and their equipment and such other State premises and property as may be available.

HISTORY: 1962 Code Section 44‑261; 1952 Code Section 44‑261; 1950 (46) 1881.

Library References

Militia 13.

Westlaw Topic No. 259.

C.J.S. Armed Services Section 341.

**SECTION 25‑3‑120.** Exemption from arrest.

 No officer or enlisted man of such force shall be arrested on any warrant, except for treason or felony, while going to, remaining at or returning from a place where he is ordered to attend for military duty.

HISTORY: 1962 Code Section 44‑262; 1952 Code Section 44‑262; 1950 (46) 1881.

CROSS REFERENCES

Persons on military or militia duty being exempt from arrest, see Section 17‑13‑60.

Library References

Militia 20.

Westlaw Topic No. 259.

C.J.S. Armed Services Section 341.

**SECTION 25‑3‑130.** Circumstances warranting call into service; law enforcement powers vested in officers.

 The Governor may, in case of insurrection, invasion, tumult, riot, breach of the peace or imminent danger thereof or to enforce the laws of this State order into service any part of the South Carolina State Guard that he may deem necessary. When the South Carolina State Guard is on active service, the commanding officer and his subordinates shall be, and they are hereby, invested with all the authority of, sheriffs and deputy sheriffs in enforcing the laws of this State.

HISTORY: 1962 Code Section 44‑263; 1952 Code Section 44‑263; 1950 (46) 1881.

CROSS REFERENCES

Power of Governor to call out the militia, see Section 1‑3‑440.

When Governor may call out the militia, see SC Const, Art 13, Section 3.

When members of militia are exempt from arrest, see SC Const, Art 13, Section 2.

Library References

States 43.

Westlaw Topic No. 360.

C.J.S. States Sections 174, 240 to 242.

**SECTION 25‑3‑140.** Pay of members on active duty.

 When members of the South Carolina State Guard are ordered to active duty by the Governor or by his authority, they shall receive the pay as specified for officers and enlisted men of the National Guard when called out for such service.

HISTORY: 1962 Code Section 44‑264; 1952 Code Section 44‑264; 1950 (46) 1881.

CROSS REFERENCES

Pay of members of National Guard on duty, see Section 25‑1‑2200.

Library References

Militia 11.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 346.

**SECTION 25‑3‑150.** Service out of State.

 The South Carolina State Guard shall not be required to serve outside the boundaries of this State except as herein otherwise expressly provided.

HISTORY: 1962 Code Section 44‑265; 1952 Code Section 44‑265; 1950 (46) 1881.

Library References

Militia 15.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 349.

**SECTION 25‑3‑160.** Service on request of Governor of another state.

 Notwithstanding the provisions of Section 25‑3‑150, upon the request of the Governor of another state, the Governor of this State may, in his discretion, order any portion of or all of such force to assist the military or police force of such other state who are actually engaged in defending such state. Such force may be recalled by the Governor at his discretion. Any service so rendered to any other state shall not be at the expense of this State.

HISTORY: 1962 Code Section 44‑265; 1952 Code Section 44‑266; 1950 (46) 1881.

Library References

Militia 15.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 349.

**SECTION 25‑3‑170.** Pursuit of fugitives.

 Any organization, unit or detachment of such force, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrections, saboteurs, enemies or enemy forces beyond the borders of this State into another state until such persons are apprehended or captured by such organization, unit or detachment or until the military or police force of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons. But such pursuit is not authorized unless such other state shall have given the authority by law for such pursuit by such force of this State. Any such persons who shall be apprehended or captured in such other state by an organization, unit or detachment of the force of this State shall without unnecessary delay be surrendered to the military or police force of the state in which they are taken or to the United States. The surrender of insurrectionists or saboteurs to the military or police force of such other state shall not constitute a waiver by this State of its rights to extradite or prosecute such insurrectionists or saboteurs for any crime committed in this State.

HISTORY: 1962 Code Section 44‑267; 1952 Code Section 44‑267; 1950 (46) 1881.

Library References

Militia 15.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 349.

**SECTION 25‑3‑180.** Pursuit of fugitives into this State by out‑of‑State forces.

 Any military force, organization, unit or detachment thereof of any other state who are fresh in pursuit of insurrectionists, saboteurs, enemies or enemy forces may continue such pursuit into this State until the military or police force of this State or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such insurrectionists, saboteurs, enemies or enemy forces and may arrest or capture such persons within this State while in fresh pursuit. Any such person who shall be captured or arrested by the military of such other state while in this State shall without unnecessary delay be surrendered to the military or police force of this State or to the United States, to be dealt with according to law. This section shall not be construed to make unlawful any arrests in this State which would otherwise be lawful and nothing contained in this section shall be deemed to repeal any of the provisions of the Uniform Act on the Fresh Pursuit of Criminals.

HISTORY: 1962 Code Section 44‑268; 1952 Code Section 44‑268; 1950 (46) 1881.

Library References

Militia 15.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 349.

**SECTION 25‑3‑190.** Force not subject to service of United States.

 Nothing in this chapter shall be construed as authorizing such force, or any part thereof, to be called, ordered or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such force be exempted from military service under any law of the United States.

HISTORY: 1962 Code Section 44‑269; 1952 Code Section 44‑269; 1950 (46) 1881.

Library References

Militia 15.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 349.

**SECTION 25‑3‑200.** Courts‑martial.

 Whenever such force, or any part thereof, shall be ordered out for active service the provisions of law governing the National Guard of this State relating to courts‑martial, their jurisdiction and the limits of punishment and the rules and regulations prescribed thereunder shall be in full force and effect.

HISTORY: 1962 Code Section 44‑270; 1952 Code Section 44‑270; 1950 (46) 1881.

Library References

Militia 21.

Westlaw Topic No. 259.

C.J.S. Armed Services Section 341.

**SECTION 25‑3‑210.** Resignation of officers or discharge of enlisted men.

 The Governor may accept the resignation of any officer or grant a discharge to any enlisted man at any time in his discretion.

HISTORY: 1962 Code Section 44‑271; 1952 Code Section 44‑271; 1950 (46) 1881.

Library References

Militia 10.

Westlaw Topic No. 259.

C.J.S. Armed Services Sections 341, 345.