

### **35.070 Commanding officer's nonjudicial punishment.**

- (1) Under such regulations as may be issued pursuant to this chapter, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one (1) or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:
  - (a) Upon officers of his command:
    1. Restriction to certain specified limits, with or without suspension from duty, for a period not to exceed two (2) consecutive weeks; or
    2. A fine not exceeding two hundred dollars (\$200);
  - (b) Upon other military personnel:
    1. Restriction to certain specified limits, with or without suspension from duty, for a period not to exceed two (2) consecutive weeks;
    2. Extra duties for a period not more than fourteen (14) days which need not be consecutive, and not to exceed two (2) hours per day, holidays included;
    3. Forfeiture of pay and allowances not exceeding one hundred dollars (\$100) or a fine of a like amount;
    4. Reduction to next lower grade if the grade from which demoted was established by the command or an equivalent or lower command; or
    5. A combination of these punishments.
- (2) Prior to being informed of the disciplinary action to be taken under this section, the person to be punished shall have the right to demand a trial by court-martial for the offense.
- (3) Under such regulations as may be issued pursuant to this chapter, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers authorized to exercise such powers, and the applicability of this section to an accused on active service who demands trial by a court-martial.
- (4) An officer in charge may, for minor offenses, impose on enlisted persons assigned to the unit of which he is in charge such of the punishments authorized to be imposed by commanding officers as may be specifically prescribed by regulations issued pursuant to this chapter.
- (5) Except where punishment has been imposed by the Governor, a person punished under this section who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, his successor in command and superior authority may suspend, set aside or remit any part or amount of the punishment and restore all rights, privileges and property affected.
- (6) The imposition and enforcement of disciplinary punishment under authority of this section for any act or omission shall not be a bar to trial by court-martial for a

serious crime or offense arising out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the amount of punishment to be adjudged in the event of a finding of guilty.

- (7) Whenever a punishment of forfeiture of pay and allowances is imposed as provided in this section, the forfeiture may apply to pay or allowances becoming due on or after the date such punishment is imposed and to pay allowances accrued before such a date.

**Effective:** July 15, 1986

**History:** Amended 1986 Ky. Acts ch. 239, sec. 5, effective July 15, 1986. -- Amended 1974 Ky. Acts ch. 108, sec. 1. -- Amended 1970 Ky. Acts ch. 56, sec. 10. -- Created 1954 Ky. Acts ch. 99, sec. 13, effective July 1, 1954.