

**38.030 Ordering troops into state active duty -- Nontactical direction by local civil officers -- Disability compensation for injury or disease arising from state active duty.**

- (1) Only the Governor shall have the authority to order units and members of the Kentucky National Guard into state active duty.
  - (a) The Governor may order units and individual members of the Kentucky National Guard into state active duty for any of the following purposes:
    1. Protecting lives and property;
    2. Assisting in disaster relief or other humanitarian efforts;
    3. Preventing or suppressing riot or civil disorder;
    4. Enforcing the laws of the Commonwealth; or
    5. Other similar purpose.
  - (b) In addition to ordering personnel and units to state active duty, the Governor may order other members of the Kentucky National Guard to participate in or perform duty in support of state active duty missions notwithstanding the fact that they are then entitled to receive federal pay and allowances pursuant to Title 32 of the United States Code. The personnel may be ordered to perform state active duty support missions either prior to, during, or after the time that state active duty missions are planned or performed.
  - (c) Members of the National Guard who are ordered to perform duty as provided in subsection (1)(b) of this section while they are entitled to receive federal pay under Title 32 of the United States Code shall have all of the powers, immunities, and benefits conferred by law upon persons ordered to state active duty except that they shall receive no additional pay for the duty and the provisions of KRS 38.235 shall not apply to them. The powers, immunities, and benefits conferred upon those persons shall be in addition to, and not in place of, those powers, immunities, and benefits provided under federal law.
  - (d) Any member of the National Guard may, with his consent, be ordered to state active duty without pay.
- (2) The Governor may direct the commanding officer of the military forces ordered to state active duty to report to any civil officer, including, but not limited to, judge, county judge/executive, mayor, sheriff, or head of law enforcement or other public agency in whose jurisdiction the state active duty mission is to be performed. The civil officer may advise the commanding officer regarding the specific objectives to be accomplished by the military force, but the tactical direction and disposition of the troops and the particular means to be employed to accomplish the mission shall be left solely to the commanding officer of the National Guard.
- (3) Troops shall not be relieved from active field service except by order of the Governor.
- (4) National Guard officers, enlisted soldiers, and airmen who are temporarily or permanently disabled as a direct result of an injury or disease arising out of the performance of an act in the line of duty while on state active duty shall, at the

discretion of the Governor, remain on paid state active duty status until a competent medical authority releases them to return to their normal activities or the Governor deems it appropriate to relieve the individual from state active duty status. Compensation paid to the soldier or airman by the department shall be adjusted and maintained at the soldier's or airman's regular rate of active duty pay; however, compensation paid by the department shall be reduced by the amount of payments received from workers' compensation insurance, Social Security benefits, and other federal or state-financed disability programs designed to supplement the soldier's or airman's income. Final compensation shall not be reduced by payments for medical care.

**Effective:** March 11, 2010

**History:** Amended 2010 Ky. Acts ch. 13, sec. 1, effective March 11, 2010. -- Amended 2009 Ky. Acts ch. 95, sec. 1, effective March 24, 2009. -- Amended 1992 Ky. Acts ch. 307, sec. 4, effective April 9, 1992. -- Amended 1976 Ky. Acts ch. 62, sec. 49. -- Amended 1974 Ky. Acts ch. 108, sec. 13. -- Amended 1962 Ky. Acts ch. 47, sec. 1. - - Amended 1954 Ky. Acts ch. 98, sec. 3. -- Amended 1942 Ky. Acts ch. 4, sec. 23. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2711a-149, 2711a-163, 2711a-195.

**Legislative Research Commission Note** (3/24/2009). The Reviser of Statutes has corrected a manifest clerical or typographical error in subsection (4) of this statute under the authority of KRS 7.136(1)(h).