

48-1701. Ratification of compact by legislature; text. The national guard mutual assistance compact is hereby enacted into law and entered into by this state with all other states legally joining therein, in the form substantially as follows:

ARTICLE I.—PURPOSES

The purposes of this compact are to:

1. Provide for mutual aid among the party states in the utilization of the national guard to cope with emergencies.
2. Permit and encourage a high degree of flexibility in the deployment of national guard forces in the interest of efficiency.
3. Maximize the effectiveness of the national guard in those situations which call for its utilization under this compact.
4. Provide protection for the rights of national guard personnel when serving in other states on emergency duty.

ARTICLE II.—ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force when enacted into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

ARTICLE III.—MUTUAL AID

(a) As used in this article:

1. "Emergency" means an occurrence or condition, temporary in nature, in which police and other public safety officials and locally available national guard forces are, or may reasonably be expected to be, unable to cope with substantial and imminent danger to the public safety.
2. "Requesting state" means the state whose governor requested assistance in coping with an emergency.
3. "Responding state" means the state furnishing aid, or requested to furnish aid.

(b) Upon request of the governor of a party state for assistance in an emergency, the governor of a responding state shall have authority under this compact to send without the borders of his state and place under the temporary command of the appropriate national guard or other military authorities of the requesting state all or any part of the national guard forces of his state as he may deem necessary, and the exercise of his discretion in this regard shall be conclusive.

(c) The governor of a party state may withhold the national guard forces of his state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

(d) Whenever national guard forces of any party state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges and immunities as members of national guard forces in such other state. The requesting state shall save members of the national guard forces of responding states harmless from civil liability for acts or omissions in good faith which occur in the performance of their duty while engaged in carrying out the purposes of this compact, whether responding forces are serving the requesting state within its borders or are in transit to or from such service.

(e) Subject to the provisions of paragraphs (f), (g) and (h) of this article, all liability that may arise under the laws of the requesting state, the responding state, or a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(f) Any responding state rendering aid pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of the materials, transportation and maintenance of national guard personnel and equipment incurred in connection with such request: *Provided*, That nothing herein contained shall prevent any responding state from assuming such loss, damage, expense or other cost.

(g) Each party state shall provide, in the same amounts and manner as if they were on duty within their state, for the pay and allowances of the personnel of its national guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact. Such pay and allowances shall be deemed items of expense reimbursable under paragraph (f) by this requesting state.

(h) Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its national guard forces in case such members sustain injuries or are killed within their own state, shall provide for the payment of compensation and death benefits in the same manner and on the same terms in case such members sustain injury or are killed while rendering aid pursuant to this compact. Such compensation and death benefits shall be deemed items of expense reimbursable pursuant to paragraph (f) of this article.

ARTICLE IV.—DELEGATION

Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his responsibilities or authority respecting the national guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

ARTICLE V.—LIMITATIONS

Nothing in this compact shall:

1. Expand or add to the functions of the national guard, except with respect to the jurisdictions within which such functions may be performed.
2. Authorize or permit national guard units to be placed under the field command of any person not having the military or national guard rank or status required by law for the field command position in question.

ARTICLE VI.—CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History: L. 1968, ch. 68, § 1; March 16.