

## **Pattern State-Militia Statute**

### ***From Brent Allan Winters, *Militia of the Several States: A Common Lawyer**** **Comments § 13**

—Pursuant to U.S. Constitution, art. I, sec. 8, cl.16b

**Preamble**—By this State Militia Statute, this State Legislature means to protect the rights of the People of this State by enabling the responsibilities that our United States Constitution delegates, respecting the Militia of the several States, among four classes of Americans: congressmen, State governors & legislators, presidents, and this State's Militiamen.

**Whereas the purpose** of the Militia of the several States is to secure freedom and security at the same time by,

*First*, stopping wrongful taking life, liberty, or property;

*Second*, protecting our common-law government of laws against any government of mere men, whether foreign or domestic; and

*Third*, thereby thwarting overthrow of lawful government;

**Whereas the Militia** of this State comprises those men dwelling within its boundaries,

- Male
- Age 21 and upward
- Able-bodied to carry and use a firearm;

**Whereas the People** of this State recognize and declare the exclusive necessity of our States' Militia to the security of our State in freedom;

—See U.S. Constitution, amend. II

**Whereas the People** of this State recognize and declare that our United States Constitution affirms our State's common-law Militia;

**Whereas the People** of this State recognize and declare that the congressmen and presidents must draw their authority only from our U.S. Constitution, that said Constitution and each of the several States holds its authority direct from the militiamen of each of the several States;

**Whereas the People** of this State recognize and declare that our U.S. Constitution arranges duties under its four Militia Clauses among four classes of men: congressmen, State governors and legislators, U.S. presidents, and State militiamen;

**Whereas the People** of this State recognize and declare that we, the People of the several States of our Union, by our U.S. Constitution, have delegated to the U.S. president certain, yet limited, responsibilities respecting the Militia of the several States;

**Whereas our United States Constitution** recognizes concurrent jurisdiction of the Militia of the several States: this State's Sheriffs and Governor having jurisdiction of this State's Militia, while the President of the United States also has jurisdiction, under the restraints and according to the standards and rules our U.S. Constitution and Congress has set for him;

**Whereas this concurrent jurisdiction** of the Militia of each State arises from an incontestable dual sovereignty, one sovereignty being of each of the several States and the other being of the United States;

- *E Pluribus Unum* (this is not the United States motto)

**Whereas our U.S. Constitution** charges Congress alone with providing rules *for calling forth the Militia*;

**Whereas our U.S. Constitution** limits the reasons a president can call the Militia of the several States or any part of these into the service of the United States to only three: *to execute the Laws of the Union, suppress Insurrections and repel Invasions*;

**Whereas our U.S. Constitution** gives the President authority over any member of this State's Militia only *when called into the actual Service of the United States*.

**Whereas our U.S. Constitution** reserves *to each State, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress*;

**Whereas each State**, accordingly, has the common-law responsibility to provide practical standards for its Militia: the kind of firearm and amount of ammunition each Militiaman must provide himself, keep, and bear; the training, discipline, and skill with this firearm, to which he must attain at his own cost; and any penalties for failure to so do;

**Whereas our U.S. Constitution** bars infringement of each and every individual's God-given right *to keep and bear arms*, forbidding any act that interferes with this individual and fundamental right to keep and carry a gun;

**Whereas our U.S. Constitution's** Amendment II states that security and freedom at the same time are possible only as each Militiaman of each State fulfills his duty in accord with our U.S. Constitution's four Militia Clauses;

**Whereas**, accordingly, in order for our State to have *the security of a free State*, Amendment II bars the national government or any State government from interfering (*infringement*) with any one of the People's non-delegable right and duty to keep and bear arms;

**Whereas Congress** has neglected our U.S. Constitution's mandate to provide rules for training *the Militia of the several States*;

**Whereas the Militia of our several States** and the offices it fills are unique from any standing army or police forces; accordingly, each of our U.S. Constitution's assignment of responsibilities respecting the Militia of the several States are non-delegable and un-assignable to any regular or reserve Army, Navy, or National Guard; or to any police force or other bureaucracy or government agent;

**Whereas our U.S. Constitution's** recognition and affirmation of *the Militia of the several States* is the *supreme Law of the Land*;

**Whereas our U.S. Constitution** requires each State to organize, discipline, and train its own Militia;

**Whereas both Congress** and the several States have neglected and violated the mandates of *the People* by our U.S. Constitution's four Militia Clauses;

**Whereas our U.S. Constitution** now depends upon no other class of persons to protect the rights and freedoms of the People and of this State, except the Militia of the several States;

**Whereas** this State must never neglect its Constitution-required duty under our Second Amendment to never infringe upon the common-law right of the People to keep and bear arms, but to always encourage the People to keep themselves armed and skilled in the use of arms;

**Whereas** this State must never neglect its Constitution-required duty under our Second Amendment to never infringe upon the common-law right of the People to keep and bear arms, but to always encourage the People to keep themselves armed and skilled in the use of arms;

**Whereas**, unless *the People* of this State fulfill and enforce our U.S. Constitution's four Militia Clauses, the federal government will gain an unconstitutional monopoly of force and power, and will oppress both the States and the People—as is now seen;

**Therefore**, in recognition of the foregoing, the People of this State hereby enact this State-Militia Act:

### **Members of the Militia**

**1.** The Militia of this State includes all males between the ages of 21 and upward, dwelling within its boundaries, having intent to dwell within this State for the indefinite future, and able-bodied to carry and fire the weapon this State's legislature designates. The Militia of this State does not include females.

**2.** Militia duty in this State shall remain mandatory.

### **Becoming Available for Militia Duty**

**3.** Any man fulfilling the requirements of paragraph 1 above, may present himself as available for Militia duty by reporting to a supervisor of the township wherein he resides, at the place and during the times said supervisors designate.

**4.** Any man choosing to so report shall then provide in writing, to the township supervisor, his name, address, and other contact information—in order to enable quick response to lawful summons—, any personal skills useful for Militia duty, and his signature of acceptance that he will be placed upon his township's roll of this State's Militia.

**5.** Each Militiaman of this State, whether officer or non-officer, upon being enrolled, shall say the following upon his oath or solemn affirmation:

I will support and defend the Constitution of this State and of the United States against all enemies, foreign and domestic; and upon being duly called forth and mustered into actual service of this State, will obey all lawful orders of the Governor of this State and of the officers placed over me; and upon being duly called forth and mustered into actual service of the United States, will obey all lawful orders of the President of the United States and of the officers placed over me.

In no event shall any other oath be required of any Militiaman of this State.

**6.** By his signature and his oath, the Militiaman shall accept the responsibilities of Militia duty, according to the limitations of the U.S. Constitution and its lawful delegations.

7. Each Militiaman, upon having been sworn into this State's Militia shall, within one year, purchase, at his own expense—or otherwise lawfully acquire—the weapon and 500 rounds of ammunition this State's legislature has specified; and within two years of enrollment shall provide proof that he has, at his own expense, disciplined himself to safe handling of, care of, and marksmanship with said firearm, which meets this State's legislature's standards.

8. Any federal law, regulation, executive order, act, or action infringing upon the right of any individual of this State to keep and bear arms, or upon any other constitutional duty or responsibility rationally related to Militia duty under our U.S. Constitution, shall have no force or effect over the members of this State's Militia, regardless of whether any member in question is enrolled upon the Militia rolls of this State.

### **Qualification of Militiamen and Officers**

9. In no event shall any man be eligible to serve as a Militiaman or as a Militia Officer of this State, who holds citizenship of any country other than the United States, owes or otherwise bears allegiance to any other sovereign on earth besides the Constitution of this State and the Constitution of the United States.

### **Organization and Choosing Officers**

10. For purposes of organizing this State's Militia, the Governor shall divide this State into three blocks of equally numbered contiguous Counties— each of these three divisions having numerically equal numbers of Counties as close as is possible— and with the boundary lines between these three divisions running along a line as true east and west as these Counties' boundaries shall allow: a northern division, a middle division; and a southern division.

11. Once this State's Militia, or any part thereof, is duly summoned and mustered, the Governor of this State shall be this State Militia's Commander in Chief, and shall appoint, with the advice and consent of the State Senate, one general Militia officer to be his immediate commander of this State's Militia.

12. After 30 days but before 60 days of the enactment of this State Militia Statute, the Militiamen having been placed on the rolls of each township shall elect by majority vote their own township's Militia officers. Each Militiaman of each township shall be entitled to one vote for any officer this statute empowers him to choose. The bodily presence of three quarters of a township's or County's enrolled Militiamen shall constitute a forum for purposes of any vote taken to choose officers. Vote by proxy, telephone, mail, e-mail, or any other way other than by secret ballot of those personally present shall never be allowed.

13. The enrolled Militiamen of each township shall elect and appoint, at the time and place their township supervisor designates, by secret written ballot, one officer at the head of their township.

14. The Militiamen of each township shall be divided into companies, according as near as is possible to contiguous precincts within each township, with the Militiamen electing an officer for each company, defined as follows.

15. Each township supervisor shall divide his township's precincts into contiguous groupings in fulfillment of this Statute. Each company shall choose its own officer to be under the command of that township's officer.

**16.** Thus, any township enrolling 100 Militiamen or less shall constitute one company under the command of the township officer of their choosing. Townships enrolling 101 to 200 Militiamen shall constitute two companies of equal numbers, or as nearly equal as possible. Townships enrolling 201 to 300 Militiamen shall divide into three companies of equal numbers or as nearly equal as possible, with each company choosing its own officer to be under the command of the township officer. Townships enrolling 301 to 400 Militiamen shall divide into four companies of equal numbers, or as nearly equal as possible, with each company choosing its own officer to be under the command of the township officer—and so on as more numbers of enrolled Militiamen require.

**17.** Each company officer shall further divide his company into squads of twelve, and he, and no other, shall choose and appoint one petty officer over each squad.

**18.** Township officers, upon being chosen and appointed shall, within one month of their appointment and by the Governor's writ designating the time, assemble at their County's courthouse, and shall each cast one secret ballot for commanding officer of their County's Militia. The bodily presence of three quarters of a County's enrolled Militiamen shall constitute a forum for purposes of this vote. Vote by proxy, telephone, mail, e-mail, or any other way other than secret ballot of those personally present shall never be allowed.

**19.** As soon as ballots are counted and the results determined, the man receiving the most ballots shall be the commanding officer of that County's Militia. Each ballot shall be counted in the sight of each Militiaman having voted, and he shall acknowledge the person chosen on each ballot.

**20.** Within another 30 days of the conclusion of the deadline for electing commanding officers for each County, all such County commanding officers, by the Governor's writ designating the time, shall assemble at the State capital building, where each officer shall cast his secret ballot for an officer to serve over his division of contiguous Counties, as the State legislator has provided for herein, and directly under the Governor and his appointed State Militia commanding officer.

**21.** The bodily presence of three quarters of the State's County Militia commanding officers shall constitute a forum for purposes of this vote. Vote by proxy, telephone, mail, e-mail, or any other way other than secret written ballot of those present shall never be allowed. No more Militia officers other than these designated above shall be chosen and appointed.

### **Calling Out and Mustering Into Actual Service**

**22.** This State's Legislature shall provide criteria mandatory for the Governor to use in deciding whether or not any purported necessity warrants calling out the Militia of this State or any part of it.

**23.** The Governor of this State may summons and muster the Militia of this State, or any part of it, into actual service to execute the Laws of this State, the Laws of the United States, suppress Insurrections and repel Invasions, but only according to the criteria this State's Legislature has previously provided for the Governor to use to make such decision.

**24.** In no event shall any Militiaman be summoned and mustered into service of the United States other than *to execute the Laws of the Union, suppress Insurrections and repel Invasions*, and only according to the criteria Congress has provided for the president to use in deciding

whether or not the circumstances in question warrant calling out the Militia of the several States or any part of them.

### **Training and Pay**

**25.** This State shall pay no Militiaman, regardless of rank or title, except for time spent in actual service of this State, having been duly summoned and mustered.

**26.** This State shall have the non-delegable authority to train the Militiamen on its township rolls, according to the discipline Congress has prescribed pursuant to our U.S. Constitution art. 1, sec. 8, cl.16.

*End of Pattern State-Militia Statute.*