

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 315

Session of  
1981

INTRODUCED BY CUNNINGHAM, JANUARY 28, 1981

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
FEBRUARY 10, 1982

## AN ACT

1 Amending Title 51 (Military Affairs) of the Pennsylvania  
2 Consolidated Statutes, further providing for the powers,  
3 privileges and immunities of military or security police of  
4 the Pennsylvania National Guard.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 51, act of November 25, 1970 (P.L.707,  
8 No.230), known as the Pennsylvania Consolidated Statutes, is  
9 amended by adding a section to read:

10 ~~§ 2318. Security and military police.~~ <—

11 ~~(a) General rule.~~

12 ~~(1) While in the performance of official security or~~  
13 ~~military police duties, a member of the Pennsylvania Army or~~  
14 ~~Air National Guard who is designated and functioning as a~~  
15 ~~military or security police officer shall have the same power~~  
16 ~~and prerogatives to make arrests, with or without warrant, as~~  
17 ~~members of the Pennsylvania State Police.~~

18 ~~(2) National Guard military and security police officers~~

~~shall not have the power or duty to arrest for violations of  
75 Pa.C.S. (relating to vehicles), the act of December 15,  
1959 (P.L.1779, No.673), known as "The Fish Law of 1959," or  
the act of June 3, 1937 (P.L.1225, No.316), known as "The  
Game Law."~~

~~(b) Permissible use of force. While in the performance of  
official security or military police duties, security and  
military police of the Pennsylvania Army and Air National Guard  
shall be justified in the use of force to the extent provided by  
applicable military directives. In addition thereto, and not by  
way of limitation thereof, the principles of justification made  
applicable to peace officers by 18 Pa.C.S. Ch. 5 (relating to  
general principles of justification), shall apply to the  
security or military police of the Pennsylvania Army and Air  
National Guard while in the performance of their official  
security or military police duties.~~

~~(c) Legal assistance. Security or military police of the  
Pennsylvania Army and Air National Guard, who are not in Federal  
service, shall receive legal assistance from the Commonwealth  
for any charge of criminal or civil liability arising out of the  
performance of their official security or military police  
duties, provided that the individual was acting under lawful  
orders or in good faith reliance on an order which a reasonable  
person would consider to be lawful under the circumstances. The  
Commonwealth shall be responsible for payment of all judgments  
and costs secured against security or military police of the  
Pennsylvania Army and Air National Guard when they are entitled  
to legal assistance under this subsection.~~

~~§ 2318. MILITARY AND SECURITY POLICE.~~

~~(A) POWERS AND DUTIES.--MILITARY POLICE OFFICERS AND~~

1 SECURITY POLICE OFFICERS OF THE PENNSYLVANIA NATIONAL GUARD  
2 SHALL BE CONSIDERED POLICE OFFICERS WHEN ACTING WITHIN THE SCOPE  
3 OF THEIR MILITARY POLICE OR SECURITY POLICE DUTIES AND, WHEN SO  
4 ACTING, SHALL HAVE THE POWER TO ARREST FOR MILITARY-RELATED  
5 OFFENSES. MILITARY POLICE AND SECURITY POLICE OFFICERS MAY MAKE  
6 ARRESTS WITHOUT WARRANT FOR MILITARY-RELATED OFFENSES WHEN:

7 (1) THE OFFENSE IS A SUMMARY OFFENSE, MISDEMEANOR OR  
8 FELONY COMMITTED IN THE PRESENCE OF THE MILITARY POLICE OR  
9 SECURITY POLICE OFFICER MAKING THE ARREST.

10 (2) THE OFFENSE IS A FELONY AND THE MILITARY POLICE OR  
11 SECURITY POLICE OFFICER MAKING THE ARREST HAS PROBABLE CAUSE.

12 (B) LIMITATION.--NOTHING IN THIS SECTION SHALL BE CONSTRUED  
13 TO GIVE MILITARY POLICE OFFICERS AND SECURITY POLICE OFFICERS OF  
14 THE PENNSYLVANIA NATIONAL GUARD THE AUTHORITY TO MAKE ARRESTS  
15 FOR VIOLATIONS OF TITLE 30 (RELATING TO FISH), TITLE 75  
16 (RELATING TO VEHICLES), OR THE ACT OF JUNE 3, 1937 (P.L.1225,  
17 NO.316), KNOWN AS "THE GAME LAW."

18 (C) PRINCIPLES OF JUSTIFICATION.--WHEN ACTING WITHIN THE  
19 SCOPE OF THEIR MILITARY POLICE OR SECURITY POLICE DUTIES,  
20 MILITARY POLICE AND SECURITY POLICE OFFICERS SHALL BE CONSIDERED  
21 AS PEACE OFFICERS FOR PURPOSES OF THE PRINCIPLES OF  
22 JUSTIFICATION SET FORTH BY 18 PA.C.S. CH.5 (RELATING TO GENERAL  
23 PRINCIPLES OF JUSTIFICATION). IN ADDITION, MILITARY POLICE AND  
24 SECURITY POLICE SHALL BE JUSTIFIED IN THE USE OF DEADLY FORCE TO  
25 PREVENT SABOTAGE, ESPIONAGE, THEFT OR DESTRUCTION OF MILITARY  
26 INFORMATION OR EQUIPMENT VITAL TO THE NATIONAL SECURITY OF THE  
27 UNITED STATES.

28 (D) DEFINITIONS.--AS USED IN THIS SECTION THE FOLLOWING  
29 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
30 SUBSECTION:

1 "MILITARY POLICE." MEMBERS OF THE PENNSYLVANIA ARMY NATIONAL  
2 GUARD WHO HAVE THE MILITARY OCCUPATIONAL SPECIALITY (MOS) OF  
3 MILITARY POLICE AND WHO HAVE COMPLETED MILITARY TRAINING  
4 QUALIFYING THEM TO FUNCTION AS MILITARY POLICE OFFICERS.

5 "MILITARY-RELATED OFFENSE." AN OFFENSE IS CONSIDERED TO BE A  
6 MILITARY-RELATED OFFENSE FOR PURPOSES OF THIS SECTION IF ANY OF  
7 THE FOLLOWING CONDITIONS PERTAIN TO THE OFFENSE:

8 (1) THE OFFENSE IS COMMITTED ON LANDS OR BUILDINGS BEING  
9 USED BY THE PENNSYLVANIA MILITARY FORCES OR ON A PENNSYLVANIA  
10 NATIONAL GUARD MILITARY INSTALLATION OR ARMORY.

11 (2) THE OFFENSE INVOLVES ANY PROPERTY, SUPPLIES OR  
12 EQUIPMENT OWNED, LEASED OR ASSIGNED TO OR USED BY THE  
13 PENNSYLVANIA NATIONAL GUARD.

14 "SECURITY POLICE." MEMBERS OF THE PENNSYLVANIA AIR NATIONAL  
15 GUARD WHO HAVE THE AIR FORCE SPECIALTY CODE (AFSC) AS SECURITY  
16 OR AIR POLICE OFFICERS AND WHO HAVE COMPLETED MILITARY TRAINING  
17 QUALIFYING THEM TO FUNCTION AS SECURITY POLICE OFFICERS.

18 "VITAL TO THE NATIONAL SECURITY." MILITARY PROPERTY,  
19 INFORMATION AND EQUIPMENT IN POSSESSION OF THE PENNSYLVANIA  
20 NATIONAL GUARD ARE CONSIDERED VITAL TO THE NATIONAL SECURITY OF  
21 THE UNITED STATES WHEN DESIGNATED BY THE UNITED STATES  
22 DEPARTMENT OF DEFENSE AS PRIORITY RESOURCES ESSENTIAL TO SUPPORT  
23 THE WARTIME MISSION OF UNITED STATES ARMED FORCES OR SINGLE  
24 INTEGRATED OPERATIONS PLAN OR HAVING A TOP SECRET OR MORE  
25 RESTRICTIVE SECURITY CLASSIFICATION.

26 SECTION 2. SECTION 5201 OF TITLE 51 IS AMENDED BY ADDING A  
27 SUBSECTION TO READ:

28 § 5201. APPREHENSION.

29 \* \* \*

30 (D) MILITARY AND SECURITY POLICE.--A MILITARY POLICE OR

1 SECURITY POLICE OFFICER OF THE PENNSYLVANIA NATIONAL GUARD AS  
2 DEFINED IN SECTION 2318 (RELATING TO MILITARY AND SECURITY  
3 POLICE), IN A DUTY STATUS AS DEFINED IN SECTION 5101 (RELATING  
4 TO DEFINITIONS) AND WHILE PERFORMING ASSIGNED DUTIES PURSUANT TO  
5 LAWFUL ORDERS MAY APPREHEND ANY MEMBERS OF THE PENNSYLVANIA  
6 NATIONAL GUARD FOR ANY OFFENSE SPECIFIED IN PART IV (RELATING TO  
7 MILITARY JUSTICE).

8       Section ~~2~~ 3. This act shall take effect immediately.

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