

STATE OF NEW YORK

6984

2021-2022 Regular Sessions

IN ASSEMBLY

April 19, 2021

Introduced by M. of A. CUSICK, WOERNER, BUTTENSCHON, GUNTHER, GLICK, SIMON, MAGNARELLI, COLTON, ZEBROWSKI, DICKENS -- Multi-Sponsored by -- M. of A. GALEF, HYNDMAN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the military law, in relation to establishing the civilian cyber security reserve forces

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 2 of the military law, as amended by chapter 731 of the laws of 1958, is amended to read as follows:

1. The militia of the state shall be divided into the organized militia, the state reserve list, the state retired list and the unorganized militia. The organized militia shall be composed of the New York army national guard; the New York air national guard; the inactive national guard; the civilian cyber security reserve forces; the New York naval militia; the New York guard whenever such a state force shall be duly organized and such additional forces as may be created by the governor.

§ 2. The military law is amended by adding a new article 14 to read as follows:

ARTICLE 14

CIVILIAN CYBER SECURITY RESERVE FORCES

Section 350. Civilian cyber security reserve forces.

351. Rules and regulations; civilian cyber security reserve forces.

352. Equipment.

353. Restrictions.

354. Membership.

355. New York code of military justice.

356. Resignation.

357. Governor's role.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01910-01-1

1 § 350. Civilian cyber security reserve forces. 1. The governor shall
2 organize and maintain within this state, on a reserve basis, civilian
3 cyber security reserve forces capable of being expanded and trained to
4 educate and protect state, county, and local government entities, crit-
5 ical infrastructure, including election systems, businesses, and citi-
6 zens of this state from cyber attacks. In the case of an emergency
7 proclaimed by the governor, or caused by illicit actors or imminent
8 danger, the governor, as commander-in-chief, shall expand the reserve as
9 the exigency of the occasion requires.

10 2. The reserve shall be a part of the New York organized militia under
11 the adjutant general's department. The reserve shall be known as the New
12 York cyber reserve. The adjutant general shall establish and may revise,
13 the rates of pay for reserve members when called to state active duty.
14 While performing any drill or training, reserve members shall serve in
15 an unpaid volunteer status. When called to state active duty by the
16 governor, reserve members shall function as civilian members of the
17 organized militia.

18 § 351. Rules and regulations; civilian cyber security reserve forces.
19 The governor may adopt rules and regulations consistent with the
20 provisions of law governing the membership, organization, adminis-
21 tration, equipment, and maintenance of the New York cyber reserve. A
22 copy of the rules and regulations shall be available to the public in
23 the adjutant general's office.

24 § 352. Equipment. The governor may requisition from the United States
25 department of defense, for the use of the New York cyber reserve, equip-
26 ment that may be in the possession and can be furnished by the depart-
27 ment, and make available to the reserve the facilities of state armories
28 and equipment and other state premises and property that may be avail-
29 able.

30 § 353. Restrictions. This article shall not authorize the New York
31 cyber reserve, or any part thereof, to be called or ordered into the
32 military service of the United States. The reserve may become a civilian
33 component of the New York national guard.

34 § 354. Membership. 1. No person shall be accepted into the New York
35 cyber reserve who is not a United States national or a lawful permanent
36 resident, or who has been expelled or dishonorably discharged from the
37 armed forces. Applicants shall be subject to an appropriate background
38 check, in accordance with rules and regulations adopted by the governor
39 and adjutant general before admittance into the reserve.

40 2. Notwithstanding any other provision of this chapter, no person
41 shall be disqualified from acceptance into the New York cyber reserve on
42 the basis that the person is an employee of the state or a political
43 subdivision of the state, or an employee or proprietor of a private
44 entity that conducts business with the state or a political subdivision
45 of the state.

46 § 355. New York code of military justice. Whenever the New York cyber
47 reserve, or any part thereof, is ordered out for active service by the
48 governor, the New York code of military justice shall be in full force
49 with respect to those forces.

50 § 356. Resignation. 1. The governor may accept the resignation of any
51 New York cyber reserve member at any time. Reserve members serve at the
52 pleasure of the governor and may be removed from the reserve in accord-
53 ance with rules and regulations adopted under article seven of this
54 chapter.

55 2. The governor may require reimbursement for training, equipment, and
56 uniforms if a New York cyber reserve member does not serve the full term

1 of the member's membership agreement and the inability to serve out the
2 term of the membership agreement was not due to disability or similar
3 disabling medical condition.

4 § 357. Governor's role. 1. The governor, as commander-in-chief of the
5 organized militia, may order individuals or units of the New York cyber
6 reserve to state active duty to protect state, county, and local govern-
7 ment entities and critical infrastructure, including election systems,
8 or for training as the governor determines necessary. The governor, upon
9 the request of a business or citizen, also may order individuals or
10 units of the New York cyber reserve to state active duty to protect such
11 business or citizen.

12 2. When ordered by the governor to perform duty or training under this
13 article, members of the New York cyber reserve shall have the same
14 protections afforded by the "Servicemembers Civil Relief Act," Pub. L.
15 No. 108-189, 50 U.S.C. 3901-4043, and by the "Uniformed Services Employ-
16 ment and Reemployment Rights Act," 108 Stat. 3149, 38 U.S.C. 4301-4333.

17 § 3. This act shall take effect on the one hundred eightieth day after
18 it shall have become a law. Effective immediately, the addition, amend-
19 ment and/or repeal of any rule or regulation necessary for the implemen-
20 tation of this act on its effective date are authorized to be made and
21 completed on or before such effective date.