

HOUSE BILL NO. 788

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety

on _____)

(Patron Prior to Substitute--Delegate Ennis)

A BILL to amend and reenact § 44-75.1 of the Code of Virginia, relating to militia state active duty; cyber-related support.

Be it enacted by the General Assembly of Virginia:

1. That § 44-75.1 of the Code of Virginia is amended and reenacted as follows:

§ 44-75.1. Militia state active duty.

A. The Governor or his designee may call forth the militia or any part thereof to state active duty for service in any of the following circumstances:

1. In the event of invasion or insurrection or imminent threat of either;

2. When any combination of persons becomes so powerful as to obstruct the execution of laws in any part of ~~this~~ the Commonwealth;

3. When the Governor determines that a state agency or agencies having law-enforcement responsibilities are in need of assistance to perform particular law-enforcement functions, which functions he shall specify in his call to the militia;

4. In the event of flood, hurricane, fire or other forms of natural or man-made disaster wherein human life, public or private property, or the environment is imperiled;

5. In emergencies of lesser magnitude than those described in subdivision 4, including but not limited to the disruption of vital public services, wherein the use of militia personnel or equipment would be of assistance to one or more departments, agencies, institutions, or political subdivisions of the Commonwealth;

6. When the Governor determines that the National Guard and its assets would be of valuable assistance to state, local, or federal agencies having a drug law-enforcement function to combat the flow

27 of or use of illegal drugs in the Commonwealth, he may provide for the National Guard or any part thereof
 28 to support drug interdiction, counterdrug, and demand reduction activities within the Commonwealth, or
 29 outside the Commonwealth under the Interstate Compact on National Guard Mutual Assistance
 30 Counterdrug Activities Compact Operations. In calling forth the National Guard under this section, the
 31 Governor shall specify the type of support that the National Guard shall undertake with state, local, or
 32 federal law-enforcement agencies. Once called forth by the Governor, the National Guard is also
 33 specifically authorized to enter into mutual assistance and support agreements with any law-enforcement
 34 agencies, state or federal, operating within or outside ~~this~~ of the Commonwealth so long as those activities
 35 are consistent with the Governor's call. All activities undertaken by the National Guard in the areas of
 36 drug interdiction, counterdrug, and drug demand reduction shall be reported by the Adjutant General's
 37 office to the Governor and reviewed by the Governor no less frequently than every three months; ~~and~~

38 7. When the Governor determines that cyber-related support, including preparedness, response,
 39 and mitigation, is needed to assist state or local agencies or to assist private entities that provide critical
 40 infrastructure as defined in § 44-146.28:2; and

41 8. When the Governor or his designee, in consultation with the Adjutant General, determines that
 42 the militia or any part thereof is in need of specific training to be prepared for being called forth for any
 43 of the circumstances expressed in subdivisions 1 through ~~6 above~~ 7. Such training may be conducted with
 44 a state or federal agency or agencies having the capability or responsibility to coordinate or assist with
 45 any of the circumstances set forth in subdivisions 1 through ~~6 above~~ 7.

46 B. The Virginia National Guard shall be designated as a state law-enforcement agency for the sole
 47 purpose of receiving property and revenues pursuant to 18 U.S.C. § ~~981(e)(2)~~ 981(e)(2), 19 U.S.C. §
 48 1616a, and 21 U.S.C. § ~~881(e)(1)(A)~~ 881(e)(1)(A).

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