

SENATE BILL 5

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By: **Senator Hester**

Introduced and read first time: January 8, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Maryland Cyber Reserve – Established**

3 FOR the purpose of establishing the Maryland Cyber Reserve within the Military
4 Department; providing that the organized militia of the State includes the Reserve;
5 providing the oath to be taken and subscribed for individuals enlisting in the
6 Reserve; providing that certain benefits apply for an employee ordered by the
7 Governor to active military duty in the organized militia of the State for service
8 during a cyber attack; requiring the Adjutant General to maintain workers'
9 compensation insurance for members of the Reserve during training; providing that
10 the Governor is the commander-in-chief of the Reserve; providing that the Reserve
11 is under the operational control of the Adjutant General; establishing the mission of
12 the Reserve; authorizing the Governor to adopt regulations to carry out certain
13 provisions of law; requiring that certain regulations prohibit the Reserve or members
14 from accepting certain things of value; establishing the organization of the Reserve;
15 providing certain qualifications for an individual to enlist in the Reserve; requiring
16 that all members of the Reserve serve on a voluntary basis and without pay unless
17 ordered otherwise by the Adjutant General; requiring that if ordered to serve with
18 pay, the rate of pay shall be established by rule; requiring certain members of the
19 Reserve to take certain oaths; establishing the enlistment period for members of the
20 Reserve; authorizing the Governor at any time to accept the resignation of an officer
21 or grant a discharge to an enlisted individual; authorizing the Governor to
22 requisition certain arms and equipment from the United States Secretary of Defense;
23 providing that certain provisions of law do not authorize the Reserve to be ordered
24 or drafted into certain service; requiring the Governor to appoint and commission
25 certain members of the Reserve subject to certain qualifications; defining certain
26 terms; and generally relating to the Maryland Cyber Reserve.

27 BY repealing and reenacting, with amendments,
28 Article – Public Safety
29 Section 13–101, 13–203(b), 13–206(a), and 13–210
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2018 Replacement Volume and 2019 Supplement)

BY adding to

Article – Public Safety

Section 13–5A–01 through 13–5A–08 to be under the new subtitle “Subtitle 5A.
Maryland Cyber Reserve”

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Public Safety

13–101.

(a) In this title the following words have the meanings indicated.

(b) “Department” means the Military Department.

(c) **“MARYLAND CYBER RESERVE” MEANS THE MILITARY FORCE
ESTABLISHED UNDER SUBTITLE 5A OF THIS TITLE.**

(D) “Maryland Defense Force” means the military force established under Subtitle
5 of this title.

[(d)] (E) “National Guard” means the Maryland Army National Guard and
Maryland Air National Guard.

[(e)] (F) (1) “State active duty” means military duty performed in service of
the State by a unit or member of the militia under orders issued by the Governor under
Article II, § 8 of the Maryland Constitution or § 13–702 of this title.

(2) Unless the Governor specifically provides otherwise, “State active duty”
does not include drill periods, preparation for drill periods, annual training, or other
equivalent training or duty conducted under orders issued under Title 10 or Title 32 of the
United States Code.

13–203.

(b) The organized militia of the State consists of:

(1) the National Guard;

(2) the Inactive National Guard; [and]

(3) the Maryland Defense Force; AND

(4) **THE MARYLAND CYBER RESERVE.**

13–206.

(a) An individual enlisting in the organized militia shall take and subscribe to the following oath of enlistment:

“I do hereby acknowledge to have voluntarily enlisted this day of, 20, in the (National Guard) (Maryland Defense Force) **(MARYLAND CYBER RESERVE)** of the State of Maryland for the period of year(s), under the conditions prescribed by law, unless sooner discharged by proper authority. I,, do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of Maryland; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the Governor of Maryland and the orders of the officers appointed over me, according to law and regulations.”

13–210.

(a) (1) This subsection applies to the period of time that an employee is ordered by the Governor to active military duty in the organized militia of the State for service during:

(i) a civil disorder;

(ii) a natural disaster;

(iii) a labor disorder; [or]

(iv) **A CYBER ATTACK; OR**

(V) any other activity requiring support of the State militia.

(2) The Adjutant General shall secure compensation under the Maryland Workers’ Compensation Act for each officer and enlisted individual of the organized militia by maintaining an insurance policy with the Chesapeake Employers’ Insurance Company or with a stock corporation or mutual association authorized to transact the business of workers’ compensation insurance in the State.

(3) (i) An officer, enlisted individual, or employee of the Department is not entitled to the benefits of this section if the officer, enlisted individual, or employee is injured in the course of employment and has insurance coverage through the federal government that is equal to or better than the coverage provided by this title.

(ii) If a benefit provided by the federal government is less than that provided by the Maryland Workers' Compensation Act, the State and its insurer shall furnish the additional benefit necessary to make up the difference between the benefit provided by the federal government and the similar benefit required under the Maryland Workers' Compensation Act.

(4) The insurance provided under this subsection shall only cover incidents that occur after July 1, 1979.

(b) In addition to the benefits under subsection (a) of this section, the Adjutant General shall maintain workers' compensation insurance for members of the Maryland Defense Force **AND MARYLAND CYBER RESERVE** during training.

(c) The Adjutant General shall pay the premiums for the insurance policy required under this section from appropriations for the militia that the Governor includes in the State budget.

SUBTITLE 5A. MARYLAND CYBER RESERVE.

13-5A-01.

(A) (1) THERE IS ESTABLISHED IN THE STATE A MARYLAND CYBER RESERVE WITHIN THE MILITARY DEPARTMENT.

(2) THE GOVERNOR IS THE COMMANDER-IN-CHIEF OF THE MARYLAND CYBER RESERVE.

(3) THE MARYLAND CYBER RESERVE IS UNDER THE OPERATIONAL CONTROL OF THE ADJUTANT GENERAL.

(4) THERE IS A COMMANDING GENERAL OF THE MARYLAND CYBER RESERVE WHO IS APPOINTED BY THE ADJUTANT GENERAL AND SERVES AT THE PLEASURE OF THE ADJUTANT GENERAL.

(B) THE MARYLAND CYBER RESERVE IS A COMPONENT OF THE ORGANIZED MILITIA OF THE STATE IN ADDITION TO AND SEPARATE FROM THE NATIONAL GUARD.

(C) (1) THE MARYLAND CYBER RESERVE SHALL HAVE THE PRIMARY MISSION OF PROVIDING EDUCATIONAL AND TECHNICAL SUPPORT TO PREVENT AND RESOLVE CYBER ATTACKS AGAINST:

(I) STATE, COUNTY, AND LOCAL GOVERNMENT AGENCIES; AND

(II) CRITICAL INFRASTRUCTURE WITHIN THE STATE.

(2) THE MARYLAND CYBER RESERVE SHALL ALSO HAVE OTHER DUTIES AND MISSIONS AS IT MAY BE ASSIGNED FROM TIME TO TIME BY COMPETENT AUTHORITY, INCLUDING PROVIDING TECHNICAL SUPPORT TO:

(I) CORPORATIONS CONDUCTING BUSINESS WITHIN THE STATE TARGETED IN A CYBER ATTACK; AND

(II) CITIZENS OF THE STATE TARGETED IN A CYBER ATTACK.

13-5A-02.

(A) (1) THE GOVERNOR MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE GOVERNING THE ENLISTMENT, ORGANIZATION, ADMINISTRATION, EQUIPMENT, MAINTENANCE, TRAINING, AND DISCIPLINE OF THE MARYLAND CYBER RESERVE.

(2) THE GOVERNOR MAY PRESCRIBE A UNIFORM FOR THE MARYLAND CYBER RESERVE.

(B) (1) THE REGULATIONS SHALL PROHIBIT THE MARYLAND CYBER RESERVE OR A MEMBER OF THE MARYLAND CYBER RESERVE FROM ACCEPTING GIFTS, DONATIONS, GRATUITIES, OR ANYTHING OF VALUE FROM A PERSON IN EXCHANGE FOR SPECIFIC AND ISOLATED SERVICES RENDERED BY THE MARYLAND CYBER RESERVE.

(2) THIS SUBSECTION MAY NOT BE INTERPRETED TO PROHIBIT GIFTS, BEQUESTS, AND THE LIKE FROM ANY INDIVIDUAL OR ORGANIZATION TO THE MARYLAND CYBER RESERVE OR ANY FOUNDATION OR THE LIKE ESTABLISHED TO SUPPORT ITS ACTIVITIES.

13-5A-03.

(A) THE MARYLAND CYBER RESERVE CONSISTS OF:

(1) COMMISSIONED OR ASSIGNED OFFICERS; AND

(2) QUALIFIED INDIVIDUALS WHO VOLUNTEER TO SERVE AND ARE COMMISSIONED, APPOINTED, OR ENLISTED IN THE MARYLAND CYBER RESERVE.

(B) AN INDIVIDUAL MAY NOT BE COMMISSIONED OR ENLISTED IN THE MARYLAND CYBER RESERVE IF THE INDIVIDUAL:

(1) IS NOT A CITIZEN OF THE UNITED STATES;

(2) HAS BEEN DISMISSED FROM OR RECEIVED A BAD CONDUCT DISCHARGE, A DISHONORABLE DISCHARGE, OR ANY DISCHARGE OTHER THAN UNDER HONORABLE CONDITIONS FROM A MILITARY OR NAVAL ORGANIZATION OF THIS STATE OR OF ANOTHER STATE, OR FROM ANY OF THE UNITED STATES ARMED FORCES OR ITS AUXILIARIES, OR HAS BEEN CONVICTED OF AN OFFENSE UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR, NO MATTER WHAT PUNISHMENT WAS ACTUALLY IMPOSED; OR

(3) DOES NOT MEET THE QUALIFICATIONS FOR COMMISSIONING, APPOINTMENT, OR ENLISTMENT SPECIFIED IN REGULATIONS GOVERNING THE MARYLAND CYBER RESERVE.

(C) A CIVIL ORGANIZATION, SOCIETY, CLUB, POST, ORDER, FRATERNITY, ASSOCIATION, BROTHERHOOD, BODY, UNION, LEAGUE, OR OTHER COMBINATION OF PERSONS OR CIVIL GROUPS MAY NOT ENLIST IN THE MARYLAND CYBER RESERVE AS AN ORGANIZATION OR UNIT.

(D) (1) ALL MEMBERS OF THE MARYLAND CYBER RESERVE SERVE ON A VOLUNTARY BASIS AND WITHOUT PAY, UNLESS UNDER ORDERS, APPROVED BY THE ADJUTANT GENERAL, SPECIFYING THAT THE MEMBER'S SERVICE IS WITH PAY.

(2) (I) IF AN ORDER APPROVED BY THE ADJUTANT GENERAL SPECIFIES THAT THE SERVICE OF A MEMBER OF THE MARYLAND CYBER RESERVE IS WITH PAY, THE MEMBER SHALL RECEIVE A RATE OF PAY DETERMINED AND PROVIDED BY RULE BY THE ADJUTANT GENERAL.

(II) THE RULE SHALL ESTABLISH A RATE OF PAY REASONABLE AND COMMENSURATE WITH THE TRAINING, EXPERIENCE, AND PROFESSIONAL QUALIFICATIONS OF THE MEMBER.

13-5A-04.

(A) AN OFFICER OR A WARRANT OFFICER COMMISSIONED OR APPOINTED IN THE MARYLAND CYBER RESERVE SHALL TAKE THE OATH PRESCRIBED IN § 13-5A-07 OF THIS SUBTITLE.

(B) AN INDIVIDUAL WHO ENLISTS IN THE MARYLAND CYBER RESERVE SHALL TAKE AN OATH SUBSTANTIALLY IN THE FORM REQUIRED FOR ENLISTED PERSONNEL OF THE NATIONAL GUARD, SUBSTITUTING "MARYLAND CYBER RESERVE" WHERE NECESSARY IN THE OATH.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ENLISTMENT PERIOD IN THE MARYLAND CYBER RESERVE IS DETERMINED BY THE COMMANDING OFFICER BASED ON THE SPECIALTY OF THE RECRUIT AND THE NEEDS OF THE MILITIA AND MAY BE RENEWED.

(2) IN THE CASE THAT A STATE OF WAR EXISTS BETWEEN THE UNITED STATES AND ANY OTHER NATION, OR THAT THERE IS A FEDERAL OR STATE DECLARATION OF EMERGENCY PRESENTLY IN FORCE IN THE STATE, ALL ENLISTMENTS SHALL CONTINUE UNTIL 3 MONTHS AFTER SAID STATE OF WAR OR EMERGENCY ENDS, UNLESS THE ENLISTED INDIVIDUAL IS DISCHARGED SOONER BY PROPER AUTHORITY.

(D) THE GOVERNOR MAY ACCEPT THE RESIGNATION OF AN OFFICER OR GRANT A DISCHARGE TO AN ENLISTED INDIVIDUAL AT ANY TIME.

13-5A-05.

(A) THE GOVERNOR MAY REQUISITION ANY ARMS AND EQUIPMENT FROM THE UNITED STATES SECRETARY OF DEFENSE THAT ARE IN THE POSSESSION OF AND CAN BE SPARED BY THE DEPARTMENT OF DEFENSE FOR USE BY THE MARYLAND CYBER RESERVE.

(B) THE GOVERNOR MAY ALLOW THE MARYLAND CYBER RESERVE TO USE THE FACILITIES AND EQUIPMENT OF A STATE ARMORY OR OTHER AVAILABLE STATE PREMISES AND PROPERTY.

(C) A SCHOOL AUTHORITY MAY ALLOW THE MARYLAND CYBER RESERVE TO USE A SCHOOL BUILDING OR SCHOOL GROUNDS.

13-5A-06.

(A) (1) THIS TITLE DOES NOT AUTHORIZE THE MARYLAND CYBER RESERVE TO BE ORDERED OR DRAFTED INTO THE MILITARY SERVICE OF THE UNITED STATES, EXCEPT BY ORDER OF THE PRESIDENT OF THE UNITED STATES ACTING PURSUANT TO THE CONSTITUTION AND LAWS OF THE UNITED STATES.

(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT SERVICE OF THE MARYLAND CYBER RESERVE OR PERSONNEL THEREOF IN MISSIONS IN WHICH FEDERAL MILITARY PERSONNEL ARE ALSO SERVING OR IN COMMAND.

(B) AN INDIVIDUAL IS NOT EXEMPT FROM MILITARY SERVICE UNDER THE

LAWS OF THE UNITED STATES BECAUSE THE INDIVIDUAL IS ENLISTED,
COMMISSIONED, OR APPOINTED IN THE MARYLAND CYBER RESERVE.

13-5A-07.

A COMMISSIONED OFFICER OF THE MARYLAND CYBER RESERVE SHALL TAKE
THE FOLLOWING OATH OF OFFICE:

“I,, DO SOLEMNLY SWEAR THAT I WILL SUPPORT AND DEFEND THE
CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THE STATE OF
MARYLAND, AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC; THAT I WILL BEAR
TRUE FAITH AND ALLEGIANCE TO THE SAME; THAT I WILL OBEY THE ORDERS OF THE
PRESIDENT OF THE UNITED STATES AND OF THE GOVERNOR OF THE STATE OF
MARYLAND; THAT I TAKE THIS OBLIGATION FREELY, WITHOUT ANY MENTAL
RESERVATION OR PURPOSE OF EVASION, AND THAT I WILL WELL AND FAITHFULLY
DISCHARGE THE DUTIES OF THE OFFICE OF IN THE MARYLAND CYBER
RESERVE UPON WHICH I AM ABOUT TO ENTER, SO HELP ME GOD.”

13-5A-08.

(A) (1) THE GOVERNOR SHALL APPOINT AND COMMISSION EACH
COMMISSIONED OFFICER OR APPOINT EACH WARRANT OFFICER OF THE ORGANIZED
MILITIA ON RECOMMENDATION OF THE ADJUTANT GENERAL.

(2) THE APPOINTMENTS UNDER PARAGRAPH (1) OF THIS
SUBSECTION DO NOT REQUIRE CONFIRMATION BY THE SENATE OF MARYLAND.

(B) (1) EACH INDIVIDUAL COMMISSIONED OR APPOINTED AS AN OFFICER
OR A WARRANT OFFICER SHALL BE:

(I) AN OFFICER, A WARRANT OFFICER, OR AN ENLISTED
INDIVIDUAL OF THE NATIONAL GUARD;

(II) A RETIRED OR FORMER OFFICER OR WARRANT OFFICER OF
THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD,
OR ANY AUXILIARY THEREOF;

(III) AN INDIVIDUAL WITH PRIOR ENLISTED SERVICE IN THE
UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD, OR
ANY AUXILIARY THEREOF;

(IV) A GRADUATE OF THE UNITED STATES MILITARY ACADEMY,
NAVAL ACADEMY, COAST GUARD ACADEMY, MERCHANT MARINE ACADEMY, OR

1 AIR FORCE ACADEMY;

2 (V) A GRADUATE OF A SCHOOL, A COLLEGE, A UNIVERSITY, OR
3 AN OFFICERS' TRAINING SCHOOL WHO RECEIVED MILITARY INSTRUCTION UNDER
4 THE SUPERVISION OF AN OFFICER OF THE UNITED STATES ARMY, NAVY, MARINE
5 CORPS, AIR FORCE, OR COAST GUARD WHO CERTIFIED THE GRADUATE'S FITNESS
6 FOR APPOINTMENT AS A COMMISSIONED OFFICER; OR

7 (VI) AN INDIVIDUAL NOT OTHERWISE IDENTIFIED IN ITEMS (I)
8 THROUGH (V) OF THIS PARAGRAPH WHO IS SPECIALLY QUALIFIED FOR SERVICE BY
9 ACHIEVEMENT IN ANY PROFESSIONAL, TECHNICAL, OR PUBLIC SERVICE CAPACITY
10 OR OTHERWISE DISPLAYS EXTRAORDINARY QUALIFICATIONS FOR COMMISSIONING
11 AS AN OFFICER OF THE MARYLAND CYBER RESERVE.

12 (2) BEFORE TAKING OFFICE, EACH MEMBER OF THE NATIONAL
13 GUARD SHALL TAKE THE OATH PRESCRIBED IN § 13-407 OF THIS TITLE AND EACH
14 MEMBER OF THE MARYLAND CYBER RESERVE SHALL TAKE THE OATH PRESCRIBED
15 IN § 13-5A-07 OF THIS SUBTITLE.

16 (C) WHEN INITIALLY APPOINTED, A GENERAL OFFICER OR COLONEL OF
17 THE ORGANIZED MILITIA MUST:

18 (1) BE AN OFFICER IN THE NATIONAL GUARD OF A GRADE OF O-4 OR
19 HIGHER; OR

20 (2) HAVE SERVED IN ANY COMPONENT OR AUXILIARY OF THE UNITED
21 STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD OR
22 NATIONAL GUARD WITH THE GRADE OF O-4 OR HIGHER.

23 (D) WHEN INITIALLY APPOINTED, A LIEUTENANT COLONEL OR MAJOR OF
24 THE LINE MUST HAVE HAD SERVICE AS AN OFFICER FOR AT LEAST 2 YEARS IN ANY
25 COMPONENT OR AUXILIARY OF THE UNITED STATES ARMY, NAVY, MARINE CORPS,
26 AIR FORCE, OR COAST GUARD OR NATIONAL GUARD.

27 (E) SUBSECTIONS (C) AND (D) OF THIS SECTION DO NOT APPLY IN THE CASE
28 OF:

29 (1) OFFICERS PROMOTED TO THE GRADE OF MAJOR OR ABOVE FROM
30 WITHIN THE MARYLAND CYBER RESERVE; OR

31 (2) OFFICERS QUALIFIED UNDER SUBSECTION (B)(1)(VI) OF THIS
32 SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2020.