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SFA**BILL ANALYSIS**

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Senate Bill 549 (as introduced 6-3-97)
Sponsor: Senator Mike Rogers
Committee: Government Operations

Date Completed: 10-1-97

CONTENT

The bill would amend the Michigan Military Act to:

- **Designate the Michigan National Guard as a law enforcement agency in order to receive or use property or money forfeited under certain Federal laws.**
- **Specify that National Guard service would include the enforcement of controlled substance laws.**
- **Permit the Governor to enter into an agreement with other governors authorizing the State's military forces to assist another law enforcement agency in enforcing a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance.**
- **Grant immunity from liability and prosecution to a National Guard member from another state who was performing support duty in Michigan.**

The bill specifies that the Michigan National Guard would be a law enforcement agency under the Act solely for the purpose of receiving or using property or money forfeited under certain sections of Title 18 of the United States Code, Title IV of the Tariff Act of 1930, Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970. (Those laws provide for the seizure, forfeiture, and disposition of property involved in various Federal offenses.)

Under the Act, "active state service", as applied to the National Guard and the defense force, means military service in support of civil authorities, if ordered by the Governor or as otherwise provided in the Act. The bill specifies that this would include, but not be limited to, support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, as defined in the Public Health Code.

Currently, if any portion of the organized militia is called into active State service or into the service of the United States to execute laws, engage in disaster relief, suppress or prevent actual or threatened riot or insurrection, or repel invasion, a commanding officer must use his or her own judgment in apprehending or dispersing snipers, rioters, a mob, or unlawful assembly. Under the bill, this also would apply when the organized militia was called into service to enforce a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance, as defined by the Public Health Code.

Under the bill, the Governor could enter into an agreement with the governors of one or more states authorizing this State's military forces to assist a state or local law enforcement agency in enforcing a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as defined in the Public Health Code or in a similar law of the other state, to be employed within the other states for mutual assistance in the public interest. Currently, the Governor may enter into agreements with other governors authorizing the State's military forces to provide mutual assistance in time of invasion, rebellion, public disaster, or catastrophe.

A National Guard member from another state performing support duty to a Federal, State, or local law enforcement agency in Michigan would have the same immunity from liability and prosecution as a member of the Michigan National Guard has in performing support duty to a Federal, State, or local law enforcement agency.

MCL 32.505 et al.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill, by designating the Michigan National Guard as a law enforcement agency of the State, would satisfy Federal regulations that require such designation in order for the Guard to be eligible to share Federal forfeiture funds that become available from Federal drug cases. The Michigan National Guard could possibly receive several thousand dollars annually in Federal forfeiture funds for its assistance to the postal service, U.S. Customs, and the Federal Aeronautics Administration in Federal drug investigations.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.