

SENATE BILL REPORT

SHB 1036

As of March 24, 2009

Title: An act relating to the Washington code of military justice.

Brief Description: Concerning the Washington code of military justice.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Kelley, Morrell, Moeller, Rodne, Seaquist, McCoy, Green, Goodman, Kirby, McCune, Hurst, Miloscia, Hunt, Appleton, Chase, Conway, Williams, Campbell, Ross and Bailey; by request of Washington Military Department).

Brief History: Passed House: 2/13/09, 95-0.

Committee Activity: Government Operations & Elections: 3/24/09.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Aaron Gutierrez (786-7448)

Background: The Washington Code of Military Justice (WCMJ) governs the organization, administration, and duties of the Washington National Guard. The WCMJ applies to offenses committed by members of the National Guard while on inactive duty (such as a drill weekend) or active state service. It does not apply to National Guard troops on federal active duty status under Title 10 of the United States Code.

The WCMJ initially paralleled the Uniform Code of Military Justice (UCMJ). The last substantial update to the WCMJ was in 1989, and changes to the UCMJ since that date have not been reflected in the WCMJ.

Summary of Bill: The WCMJ is updated to reflect changes to the UCMJ. Changes include:

- The WCMJ applies to military offenses committed by members of the National Guard at any time. Nonmilitary offenses committed by members of the National Guard are not actionable under the WCMJ, and a member of the National Guard who commits a nonmilitary offense within a state armory will be turned over to civilian authorities for prosecution. For an offense that is both a military and nonmilitary offense, prosecution by civilian authorities takes precedence.
- A "military offense" is any of the offenses listed in RCW 38.38.644 through 38.38.800, as well as the two new offenses listed below.
- A "nonmilitary offense" means offenses not listed in Title 38 RCW.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Two new offenses are punishable under the WCMJ: assault between members of the National Guard and the sale, possession, use, or introduction into military property of illegal substances.
- The maximum fine for a general court martial is increased from \$200 to \$300.
- The offenses of drunk and reckless driving are updated and clarified. A definition of blood alcohol content (BAC) is added, and a maximum BAC limit of 0.08 percent is set.
- If an investigation reveals an additional, uncharged crime, the uncharged crime may be investigated if certain conditions apply.
- If new members are added to the jury as a result of preemptory jury challenges, both the accused and trial counsel are entitled to one additional challenge against the new jury members.
- The statute of limitations for a court martial is raised from three years to five. For nonjudicial punishment, the limit is raised from two years to three.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The changes in the striker are reasonable.

Persons Testifying: PRO: Representative Kelley, prime sponsor; MG Tim Lowenberg, Washington Military Department.