

# House Study Bill 192

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC DEFENSE BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the military division and the homeland  
2 security and emergency management division of the department  
3 of public defense concerning the activation and use of the  
4 civil air patrol, the authority of the adjutant general to  
5 enter into interstate agreements for use of national guard  
6 personnel, peace officer status for national guard personnel  
7 performing certain missions, and the use of the national  
8 incident management system for state emergencies.  
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
10 TLSB 1243DP 81  
11 ec/sh/8

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1 1 Section 1. Section 29A.1, Code 2005, is amended by adding  
1 2 the following new subsection:  
1 3 NEW SUBSECTION. 0A. "Civil air patrol" means the civilian  
1 4 auxiliary of the United States air force established by the  
1 5 United States Congress in 36 U.S.C. } 40301 et seq., and 10  
1 6 U.S.C. } 9441 et seq.  
1 7 Sec. 2. NEW SECTION. 29A.3A CIVIL AIR PATROL.  
1 8 1. The civil air patrol may be used to support national  
1 9 guard missions in support of civil authorities as described in  
1 10 section 29C.5 or in support of noncombat national guard  
1 11 missions under section 29A.8 or 29A.8A.  
1 12 2. Requests for activation of the civil air patrol shall  
1 13 be made to the commander of the Iowa wing of the civil air  
1 14 patrol. Missions shall be in accordance with laws and  
1 15 regulations applicable to the United States air force and the  
1 16 civil air patrol. Prior to activation of the civil air  
1 17 patrol, the adjutant general or the Iowa civil air patrol wing  
1 18 commander shall apply to the air force rescue coordination  
1 19 center, the air force national security emergency preparedness  
1 20 agency, or the civil air patrol national operations center for  
1 21 federal mission status and funding.  
1 22 3. If an operation or mission of the civil air patrol is  
1 23 granted federal mission status and assigned an accompanying  
1 24 federal mission number, the following shall apply:  
1 25 a. The operation or mission shall be funded by the federal  
1 26 government.  
1 27 b. When training or operating pursuant to a federal  
1 28 mission number, members of the civil air patrol shall be  
1 29 considered federal employees for the purposes of tort claims  
1 30 arising from the performance of the mission or any actions  
1 31 incident to the performance of the mission.  
1 32 4. If an operation or mission of the civil air patrol is  
1 33 not granted federal mission status and is not assigned an  
1 34 accompanying federal mission number, the following shall  
1 35 apply:  
2 1 a. Operations and administration of the civil air patrol  
2 2 relating to missions not qualifying for federal mission status  
2 3 shall be funded by the state from moneys appropriated to the  
2 4 homeland security and emergency management division of the  
2 5 department of public defense for that purpose.  
2 6 b. When performing a mission that does not qualify for  
2 7 federal mission status, members of the civil air patrol shall  
2 8 be considered state employees for purposes of the Iowa tort  
2 9 claims Act, as provided in chapter 669, and for purposes of  
2 10 workers' compensation, as provided in chapter 85.  
2 11 Sec. 3. Section 29A.12, Code 2005, is amended to read as  
2 12 follows:  
2 13 29A.12 POWERS AND DUTIES.

2 14 1. The adjutant general shall have command and control of  
2 15 the military division, and perform such duties as pertain to  
2 16 the office of the adjutant general under law and regulations,  
2 17 pursuant to the authority vested in the adjutant general by  
2 18 the governor. The adjutant general shall superintend the  
2 19 preparation of all letters and reports required by the United  
2 20 States from the state, and perform all the duties prescribed  
2 21 by law. The adjutant general shall have charge of the state  
2 22 military reservations, and all other property of the state  
2 23 kept or used for military purposes. The adjutant general  
2 24 shall cause an inventory to be taken at least once each year  
2 25 of all military stores, property and funds under the adjutant  
2 26 general's jurisdiction. In each year preceding a regular  
2 27 session of the general assembly the adjutant general shall  
2 28 prepare a detailed report of the transactions of that office,  
2 29 its expenses, and other matters required by the governor for  
2 30 the period since the last preceding report, and the governor  
2 31 may at any time require a similar report.

2 32 2. The adjutant general may enter into an agreement with  
2 33 the secretary of defense to operate the water plant at Camp  
2 34 Dodge for the use and benefit of the United States, and the  
2 35 state of Iowa upon terms and conditions as approved by the  
3 1 governor. The adjutant general may also enter into an  
3 2 agreement with the national guard of another state for the use  
3 3 of Iowa national guard personnel and equipment.

3 4 3. The adjutant general may request activation of the  
3 5 civil air patrol to provide assistance to the national guard  
3 6 in accordance with section 29A.3A. The adjutant general is  
3 7 authorized to provide suitable space in national guard  
3 8 facilities to support the civil air patrol.

3 9 Sec. 4. Section 29A.50, Code 2005, is amended to read as  
3 10 follows:

3 11 29A.50 IMMUNITY AND AUTHORITY.

3 12 The commanding officer and members of any of the military  
3 13 forces engaged in the suppression of an insurrection,  
3 14 assistance to civil authorities in emergencies, homeland  
3 15 defense, or security duties, or the enforcement of the laws,  
3 16 shall have the same immunity and authority as peace officers.

3 17 Sec. 5. Section 29C.5, Code 2005, is amended to read as  
3 18 follows:

3 19 29C.5 HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION.

3 20 A homeland security and emergency management division is  
3 21 created within the department of public defense. The homeland  
3 22 security and emergency management division shall be  
3 23 responsible for the administration of emergency planning  
3 24 matters, including emergency resource planning in this state,  
3 25 cooperation with, and support of, funding for, and tasking of  
3 26 the civil air patrol for missions not qualifying for federal  
3 27 mission status as described in section 29A.3A, homeland  
3 28 security activities, and coordination of available services in  
3 29 the event of a disaster.

3 30 Sec. 6. Section 29C.8, subsection 3, paragraph g, Code  
3 31 2005, is amended to read as follows:

3 32 g. ~~Develop, implement, Implement and support a uniform the~~  
3 33 ~~national incident command management system as established by~~  
3 34 ~~the United States department of homeland security to be used~~  
3 35 ~~by state agencies and local and tribal governments to~~  
4 1 ~~facilitate efficient and effective assistance to those~~  
4 2 ~~affected by emergencies and disasters. This system shall be~~  
4 3 ~~consistent with the requirements of the United States~~  
4 4 ~~occupational safety and health administration and a national~~  
4 5 ~~incident management system.~~

4 6 EXPLANATION

4 7 This bill concerns the military division and the homeland  
4 8 security and emergency management division of the department  
4 9 of public defense.

4 10 The bill provides for the activation and use of the Iowa  
4 11 wing of the civil air patrol to support civil authorities and  
4 12 to support the noncombat missions of the Iowa national guard.  
4 13 The bill provides that prior to activating the civil air  
4 14 patrol, a request for federal mission status and funding shall  
4 15 be made. If federal mission status is granted, the mission  
4 16 shall be funded by the federal government and members of the  
4 17 civil air patrol shall be considered federal employees for  
4 18 purposes of tort claims. If federal mission status is not  
4 19 granted, the bill provides that the state shall fund the  
4 20 mission through an appropriation to the homeland security and  
4 21 emergency management division of the department of public  
4 22 defense and members of the civil air patrol will be considered  
4 23 state employees for tort claims and workers' compensation  
4 24 purposes when performing missions that do not qualify for a

4 25 federal mission number.  
4 26 Code section 29A.12 is amended to authorize the adjutant  
4 27 general to provide suitable space for the civil air patrol and  
4 28 to provide explicit authority for the adjutant general to  
4 29 enter into interstate agreements with other states' national  
4 30 guards for the use of Iowa national guard personnel and  
4 31 equipment.  
4 32 Code section 29A.50 is amended to provide that members of  
4 33 the state military forces have the same authority as peace  
4 34 officers when engaged in the suppression of an insurrection,  
4 35 assistance to civil authorities in emergencies, homeland  
5 1 defense, or security duties, or the enforcement of the laws.  
5 2 Code section 29C.5 is amended to reflect that the homeland  
5 3 security and emergency management division is responsible for  
5 4 the funding and tasking of the civil air patrol for missions  
5 5 that do not qualify for federal mission status.  
5 6 Code section 29C.8 is amended to provide that the incident  
5 7 management system used by the state of Iowa, including local  
5 8 and tribal governments, for emergency and disaster response  
5 9 shall be the national incident management system as  
5 10 established by the United States department of homeland  
5 11 security.  
5 12 LSB 1243DP 81  
5 13 ec:nh/sh/8.1