

1908, ch. 103, sec. 42. 1910, ch. 204, sec. 42 (p. 196).

41. There shall be a retired list, to be known and designated as the "Maryland National Guard, Retired," and the officers placed thereon as herein provided shall be authorized to wear their uniforms and equipments upon all military occasions and occasions of ceremony. They will wear the insignia of their grade, but not the designation of the particular organization to which they belonged when in the Maryland National Guard. Retired officers upon said list shall be amenable to court-martial for military offenses to the same extent as officers on the active list of the Maryland National Guard. Any officer of the National Guard who has reached the age of sixty-four years may be placed upon the retired list by the governor. Any commissioned officer who shall have served in the military service of the State for fifteen years may, upon his own request, be placed upon the retired list and withdrawn from active service and command by the governor. Any commissioned officer who has become, or shall hereafter become, disabled and thereby incapable of performing the duties of his office shall be withdrawn from active service and command and placed on the retired list. Any commissioned officer who has become, or shall hereafter become, unfit or incompetent and thereby incapable of performing the duties of his office, shall be discharged upon the recommendation of his commanding officer, or, upon the recommendation of an inspecting officer; such retirement or discharge shall be by order of the governor, and in either case shall be subject to provisions of this section. Before making such order a board of not less than three commissioned officers, one of whom shall be a surgeon, shall be appointed whose duty it shall be to determine the facts as to the nature and cause of incapacity of such officer as appears disabled or unfit or incompetent from any cause to perform military service, and whose case shall be referred to it. No officer whose grade or promotion would be affected by the decision of such board in any case that may come before it shall participate in the examination or decision of the board in such case. Such board is hereby invested with the powers of courts of inquiry and courts-martial, and whenever it finds an officer incapacitated for active service, shall report such fact to the governor, stating cause of incapacity, whether from disability, unfitness or incompetence; and if he approves such findings, such officer shall be placed on the retired list or discharged, as provided for in this section. The members of the board shall, before entering upon the discharge of their duties, be sworn to an honest and impartial performance of their duties as members of such board. No officer shall be placed upon the retired list or discharged by the action of such board before having had a full and fair hearing before the board, if upon due notice he shall demand it. It shall not be necessary to refer any case for the action of such board arising under this section, unless the officer designated to be placed upon the retired list or discharged shall within twenty days after being notified that he will be so retired or discharged serve on the