

**Title 12. Law Enforcement, Emergency Management, and Military Affairs**  
**Chapter XX. Department of the Military, Generally**  
**Subchapter A. Generally**  
**Part 131. Operating and Parking Vehicles on State Military Reservations**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"OPERATING AND PARKING VEHICLES ON STATE MILITARY RESERVATIONS

This regulation is established in accordance with the Arkansas Administrative Procedure Act (Act), Ark. Code Ann. §§ 25-15-201 et seq.:

Official:

Major General

The Adjutant General

State Judge Advocate

History. This is the first regulation established to govern this topic.

Summary. This regulation implements Act No. 895 of 1979, as amended. It includes changes through the 2015 legislative session.

Applicability. This regulation applies to all persons operating vehicles on military reservations, as that term is defined under Ark. Code Ann. § 12-63-201.

Proponent and exception authority. The proponent of this regulation is the Arkansas State Judge Advocate. The State Judge Advocate has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the State Judge Advocate.

Distribution. This publication is available in electronic media. Special distribution of this publication in paper will be made through channels to all levels of command in the Arkansas Army National Guard."

## "1-1. Authority

This rule is created pursuant to authority granted to the Adjutant General by the Arkansas Legislature through the adoption of Act No. 50 of 1969, Act 895 of 1979, and Act 682 of 2015 (codified at Ark. Code Ann. §§ 12-61-106, 12-63-207, and 12-63-208, respectively)."

### **Subpart 1. Introduction**

#### **12 CAR § 131-101. Purpose.**

(a) The purpose of this part is to ensure the safe and orderly operation of motor vehicles on state military reservations.

(b) This part supplements existing state laws with additional measures that are intended to safeguard military personnel and property from avoidable loss.

(c)(1) The civil penalties provided in this part are intended to enforce compliance.

(2) They are not intended to generate revenue.

(d) To the extent that revenue is generated from civil penalties in an amount exceeding the costs associated with implementing this part, such revenue shall be exclusively used for the costs associated with:

(1) Policing state military reservations;

(2) Military justice; or

(3) Morale, welfare, and recreation programs on state military reservations.

**Authority.** Arkansas Code § 12-63-207.

#### **12 CAR § 131-102. Definitions.**

(a) As used in this part:

(1)(A) "All-terrain vehicles".

(B) The definitions found in Arkansas Code § 27-21-102 relating to terms relating to all-terrain vehicles (also called ATVs) are incorporated throughout this part;

(2)(A) "Military reservation".

(B) The definition found in Arkansas Code § 12-63-201 is incorporated throughout this part;

(3)(A) "Military reservation police officers".

(B) The definition found in Arkansas Code § 12-63-201 is incorporated throughout this part;

(4)(A) "Motorcycle", "motor-driven cycle", and "motorized bicycle".

(B) The definitions found in Arkansas Code § 27-20-101 relating to motorcycles, motor-driven cycles, and motorized bicycles are incorporated throughout this part; and

(5)(A) "Motorized vehicle" and general traffic terms.

(B) The definitions found in Arkansas Code § 27-23-103 are incorporated throughout this part.

(b) **Gender references.** Where context requires, the use of masculine pronouns shall be interchangeable with the feminine and vice versa.

(c) **Military terms and abbreviations.**

(1) Military terms and abbreviations are given the meaning customarily used within the Arkansas National Guard and the United States Army.

(2) Military justice terms defined by the Military Code of Arkansas, Arkansas Code § 12-61-101 et seq., are used throughout this part and have the meaning assigned by state law.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-103. Privilege to enter military reservations.**

(a) It is a privilege, not a right, to enter a state military reservation.

(b) Similarly, it is a privilege, not a right, to operate a motorized vehicle on a state military reservation.

(c) As provided in 12 CAR § 131-204, any person who repetitiously or egregiously fails or refuses to adhere to this part, or is otherwise perceived to endanger the safety of military personnel or property, may be denied the privilege of:

- (1) Operating a motorized vehicle on state military reservations; or
- (2) Entering state military reservations at all.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-104. Persons subject to the Military Code of Arkansas.**

(a) This part constitutes a lawful order given by the Adjutant General for all persons under his or her command.

(b) This part is punitive in nature.

(c) Any person suspected of violating this part while subject to the Military Code of Arkansas (Acts 1969, No. 50, as amended) may be prosecuted under state military authority and as provided under 12 CAR § 131-105.

**Authority.** Arkansas Code § 12-63-207.

**Codification Notes.** The Military Code of Arkansas is codified at Arkansas Code § 12-60-101 et seq.

**12 CAR § 131-105. Persons not subject to the Military Code of Arkansas.**

(a) This part constitutes the lawful exercise of administrative controls over all persons entering state military reservations.

(b) Any person suspected of violating this part may be cited:

- (1) Under the administrative procedures provided in this part; or
- (2) According to applicable laws of the State of Arkansas.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-106. Responsibilities.**

(a) Commanders of state military reservations are responsible for implementing this part within their respective jurisdictional areas, as directed by the Adjutant General, to include:

(1) Erecting signage and distributing pamphlets to reasonably communicate the requirements contained in this part to persons operating motor vehicles within the commander's jurisdictional area;

(2) Coordinating effort among other persons who have responsibilities under this part; and

(3) Periodically reporting to the Adjutant General regarding the number of administrative citations issued, disposition, and other relevant matters.

(b) The State Judge Advocate is responsible for ensuring that administrative hearings and procedures conducted under this part are fair and in accordance with applicable law.

(c) Military reservation police officers are responsible for enforcing this part and maintaining documents evidencing enforcement activity consistent with such standard operating procedures as may be established by the military reservation commander and approved by the Adjutant General.

(d) The Director of the Department of State Resources is responsible for ensuring proper accountability of funds received or disbursed under this part.

(e) Each military reservation commander is responsible for periodically reviewing this part and recommending such changes as may be necessary or advisable to ensure the safety of military personnel and property.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-107. Directions for implementation.**

This part shall be implemented at Camp Joseph T. Robinson Maneuver Training Center and the Fort Chaffee Joint Maneuver Training Center, which are defined as military reservations in Arkansas Code § 12-63-201.

**Authority.** Arkansas Code § 12-63-207.

## **Subpart 2. Administrative Disposition of Violations**

### **12 CAR § 131-201. Administrative disposition of violations generally.**

This part:

(1) Serves as a guide to administratively dispose of minor traffic and parking violations in a manner consistent with state law, particularly Acts 1975, No. 895, as amended (codified at Arkansas Code §§ 12-63-207 and 12-63-208);

(2) Governs the operation and parking of all motorized vehicles, both civilian and military, on state military reservations, regardless of the military status of the operator; and

(3) Does not govern the operation or parking of military vehicles outside of state military reservations.

**Authority.** Arkansas Code § 12-63-207.

### **12 CAR § 131-202. Violations not subject to administrative disposition.**

(a) The decision to issue an administrative citation, in lieu of other processes, rests in the discretion of the military reservation police officer in accordance with the ethical duties of his or her profession.

(b) However, certain offenses may not be disposed of administratively due to:

(1) The severity of the violation;

(2) Logistical demands; or

(3) Preemptive law.

(c) The following categories of violations are not subject to administrative disposition:

(1) Any conduct that would constitute reckless driving, reference Arkansas Code § 27-50-308;

(2) Any offense cognizable under the Omnibus DWI or BWI Act, Arkansas Code § 5-65-101 et seq.;

(3) Any offense conducted in concert with a felony offense;

(4) Any offense resulting in damage to property or injury to persons;

(5) Any offense related to state licensing, registration, or insurance requirements; and

(6) Any offense committed by a person possessing a commercial driver's license.

(d) Although these offenses are not subject to disposition through administrative citation, disposition through an alternative method, as identified in 12 CAR § 131-203, is appropriate.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-203. Alternative remedies.**

(a) **Uniform traffic citation.** In lieu of issuing an administrative citation, a military reservation police officer may elect, in his or her sole discretion, to issue a uniform traffic citation for prosecution in the district court having jurisdiction over the offense.

(b) **Persons subject to the Military Code of Arkansas.** Any person who violates this part while subject to the Military Code of Arkansas, Arkansas Code § 12-61-101 et seq., may also face disciplinary action under the Military Code of Arkansas.

(c) **Restrictions upon driving or entry.**

(1) As an additional remedy to the penalties provided herein, any person who repetitiously or egregiously fails or willfully refuses to adhere to this part, or is otherwise perceived to endanger the safety of military personnel or property, may be barred from:

(A) Entering state military reservations; or

(B) Operating a motor vehicle on state military reservations.

(2) The senior military reservation police officer will forward recommendations for suspension of entry or driving privileges to the military reservation commander for an initial hearing and determination.

(3) The military reservation commander, or his or her designee, shall expeditiously review the evidence and initially determine whether the person referred should be:

(A) Suspended from entering the state military reservation; or

(B) Suspended from driving on the state military reservation.

(4) The military reservation commander's initial determination shall be:

(A) Communicated to the person referred; and

(B) Forwarded to the Adjutant General for final action.

(5) Unless the military reservation commander states otherwise, an initial determination shall be enforced while pending review by the Adjutant General.

(6)(A) The Adjutant General may reverse, uphold, or modify the initial determination of the military reservation commander.

(B) The decision of the Adjutant General shall be the final determination of the Arkansas National Guard and Department of the Military.

(7) Every determination suspending a person from entering or driving upon a state military reservation shall indicate the duration thereof, which shall not exceed two (2) years, unless reexamined to validate the necessity of the suspension.

(8) Any person who violates an order of suspension may be prosecuted for trespass and such other offenses as may be applicable.

(9)(A) The procedures provided in this section are intended to provide a guide for hearing suspension referrals from military reservation police officers.

(B) These procedures are not intended to create procedural rights in any person.

(C) Most importantly, these procedures are not intended to restrict the plenary authority of the Adjutant General over state military reservations and access thereto.

(d) **Towing.**

(1) As an additional remedy to the penalties provided herein, a military reservation police officer may cause a vehicle to be towed, with or without the consent of the vehicle's owner, when the vehicle:

(A) Is unattended or abandoned (as defined in Arkansas Code § 27-50-1202);

(B) Is inoperable;

(C) Is illegal; or

(D) Otherwise poses a safety hazard to others.

(2) The owner of the towed vehicle shall be liable for the costs of towing.

(3) When reasonably possible, vehicle owners should be allowed to remove their vehicle from the state military reservation prior to nonconsensual towing.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-204. Administrative citations.**

(a) The system of administrative disposition is initiated by the issuance of an administrative citation to the operator of a vehicle on a military reservation.

**(b) Form.**

(1) The form of the citation shall be approved by the military reservation commander and the State Judge Advocate.

(2) The citation shall reasonably identify the person receiving the citation and inform him or her of the:

(A) Nature of the violation;

(B) Time and place of an administrative hearing to review the citation;

(C) Amount of civil penalty that may be tendered in lieu of appearing;

(D) Manner in which civil penalties may be tendered; and

(E) Potential consequences for failing to resolve the citation.

**(c) Duplicate copies.**

(1) Each citation shall be prepared and issued in multipart form, with sufficient legible, identical copies, to provide one (1) copy to the:

- (A) Operator;
- (B) Hearing officer; and
- (C) Keeper of records for the military reservation police office.

(2) Additionally, one (1) copy will be maintained in records of the military reservation police officer issuing the citation.

(d) **Service.**

(1) The citation may be delivered to the vehicle operator:

- (A) In person;
- (B) By posting on the operator's vehicle; or
- (C) By mailing to the residence of the operator of the vehicle or vehicle

owner.

(2) When service by mail is utilized, a copy of the citation shall be delivered to the named respondent or an attorney of record for the respondent by any form of mail addressed to the person to be served with a return receipt requested and delivery restricted to the addressee or the agent of the addressee.

(3) No hearing officer may consider a citation served by mail unless the:

- (A) Respondent appears; or
- (B) Record contains a return receipt signed by the addressee or agent of the addressee.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-205. Payment of civil penalty in lieu of appearance.**

Unless the face of the citation states otherwise, every person receiving an administrative citation may pay an administrative penalty of twenty-five dollars (\$25.00) per violation in lieu of appearing before an administrative hearing officer.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-206. Administrative hearing.**

(a) At the time and place indicated on the face of the citation, an administrative hearing shall be held to determine whether the respondent violated this part and, if so, an appropriate civil penalty to encourage compliance.

(b) **Hearing officer.** The State Judge Advocate shall designate a person who is knowledgeable in the law to:

- (1) Hear alleged violations of this part; and
- (2) Render conclusive determinations.

(c) **Standard of proof.**

(1) There is a presumption that every person operating or parking a vehicle on a state military reservation does so in accordance with the law and this part.

(2) This presumption may only be rebutted by a preponderance of the evidence that a violation occurred.

(d) **Rules of evidence.**

(1)(A) Hearings conducted under this part need not adhere to the Arkansas Rules of Evidence.

(B) Rather, hearing officers should apply such rules in a manner that will encourage openness and fairness.

(2) Hearing officers are permitted to weigh evidence in light of its admissibility under the Arkansas Rules of Evidence.

(e) **Telephonic appearance.** The hearing officer is permitted to accept telephonic evidence when the hearing officer is adequately assured, in his or her own discretion, of the identity of the witness.

(f) **Continuances.** The hearing officer is authorized to continue cases from one day to another based upon fairness or other appropriate concerns.

(g) **Conduct of hearing.**

(1) Every hearing shall be conducted in such a manner to allow the presentation of evidence that is relevant and reliable.

(2) The presentation of evidence shall:

- (A) Be orderly; and

(B) Conclude when the hearing officer determines, in his or her sole discretion, that sufficient evidence has been received to render a fair determination.

(3) Hearings shall be concluded when the hearing officer announces his or her determination.

(h) **Penalties.**

(1) If a hearing officer determines that a respondent violated this part, he or she shall announce the amount of penalty assessed, which shall not exceed one hundred dollars (\$100) per violation.

(2) Assessed penalties shall be paid in full immediately.

(3) Any person who does not pay an assessed penalty in full immediately upon determination shall be:

(A) Deemed to willfully disregard this part; and

(B) Referred for suspension of access to or driving privileges on the state military reservation.

(i) **Appeal.** If a hearing officer determines that a respondent violated this part, he or she shall inform the respondent of the right to appeal to district court under state law.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-207. Persons failing to appear.**

(a) The hearing officer shall report through the State Judge Advocate to the Adjutant General, or his or her designee, the name of every person who failed to either:

(1)(A) Pay a civil penalty in lieu of appearance before an administrative hearing.

(B) Refer to 12 CAR § 131-205; or

(2) Appear before an administrative hearing as described on the face of the citation.

(b) The State Judge Advocate will send a notice to the commander or civilian supervisor of any individual that failed to do either subdivision (a)(1) or (a)(2) of this section.

(c) Upon direction by the Adjutant General, or his or her designee, the State Judge Advocate shall:

- (1) Reschedule a past hearing; or
- (2) Refer the citation directly to a district court exercising jurisdiction over the offense.

**Authority.** Arkansas Code § 12-63-207.

### **Subpart 3. Violations**

#### **12 CAR § 131-301. Violations generally.**

- (a) The violations described in this subpart may be enforced administratively.
- (b) Any ambiguity shall be interpreted in such a manner as to increase the safety of personnel and property on state military reservations.
- (c) Some of these violations are:
  - (1) Unique to military reservations; and
  - (2) Necessary for:
    - (A) The safety of service members; and
    - (B) Good order and discipline.

**Authority.** Arkansas Code § 12-63-207.

#### **12 CAR § 131-302. Unsafe driving.**

(a) Every person driving or operating a motor vehicle on a state military reservation shall maintain proper control of the vehicle in a manner consistent with state law as well as this part.

(b) In addition to this general requirement, it is specifically prohibited for any person driving or operating a motor vehicle to:

(1) Maneuver at a speed or in a manner that, considering the totality of circumstances, is unsafe to the driver/operator or others;

(2) Pass a pedestrian or bicyclist in such a manner as to endanger the pedestrian or bicyclist;

(3) Pass a marching or running formation, unless permitted by signage or the leader of the formation;

(4) Pass a road guard, unless permitted by the road guard;

(5) Use any communication device, such as a cell phone, without the aid of a hands-free device; or

(6) Fail to use a seatbelt.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-303. Unsafe operation of motorcycle.**

(a) Every person driving or operating a motorcycle on a state military reservation shall wear proper safety equipment and shall maintain proper control of the motorcycle in a manner consistent with state law as well as this part.

(b) It is specifically prohibited for any person driving or operating a motorcycle to:

(1) Maneuver at a speed or in a manner that, considering the totality of circumstances, is unsafe to the driver/operator or others;

(2) Pass a pedestrian or bicyclist in such a manner as to endanger the pedestrian or bicyclist;

(3) Pass a marching or running formation, unless permitted by signage or the leader of the formation;

(4) Pass a road guard, unless permitted by the road guard;

(5) Fail to wear a helmet, reflective band, and other required equipment; or

(6) Use any communication device, such as a cell phone, without the aid of a hands-free device.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-304. Unsafe operation of other motorized vehicles.**

(a) Every person driving or operating ATVs or other motorized vehicles not regulated under 12 CAR § 131-302 or § 131-303 on a state military reservation shall wear proper safety equipment and shall maintain proper control of the vehicle in a manner consistent with state law as well as this part.

(b) It is specifically prohibited for any person driving or operating an ATV or other motorized vehicle not regulated under 12 CAR § 131-302 or § 131-303 to:

- (1) Maneuver at a speed or in a manner that, considering the totality of circumstances, is unsafe to the driver/operator or others;
- (2) Pass a pedestrian or bicyclist in such a manner as to endanger the pedestrian or bicyclist;
- (3) Pass a marching or running formation, unless permitted by signage or the leader of the formation;
- (4) Pass a road guard, unless permitted by the road guard;
- (5) Fail to wear required equipment; or
- (6) Use any communication device, such as a cell phone, without the aid of a hands-free device.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-305. Unauthorized parking.**

It is prohibited for any person to park:

- (1) In any parking place that is marked as reserved for another person or in such a manner as to restrict access to a parking place that is reserved for another person;
- (2) In a place that restricts the flow of traffic along a road or street;
- (3) In a fire lane; or

(4) In violation of posted rules or policies.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-306. Restricted areas.**

It is prohibited for any unauthorized person to enter or unlawfully remain in a restricted area.

**Authority.** Arkansas Code § 12-63-207.

**Subpart 4. Military Reservation Traffic Board**

**12 CAR § 131-401. Military reservation traffic board.**

(a) Each commander of a state military reservation will establish a military reservation traffic board to:

- (1) Establish procedures for implementing this part;
- (2) Propose changes to this part; and
- (3) Request the expenditure of any funds obtained through implementation of this part.

(b) The military reservation traffic board shall consist of the following persons, or their respective representatives:

- (1) Military reservation commander;
- (2) Senior military reservation police officer;
- (3) State Judge Advocate; and
- (4) Director of the Department of State Resources.

(c) The military reservation traffic board will meet at the discretion of the military reservation commander, but no less than once semiannually.

**Authority.** Arkansas Code § 12-63-207.

**12 CAR § 131-402. Disbursement of funds.**

(a) The military reservation commander may authorize, with coordination of the Director of State Resources, disbursement of funds obtained through implementation of this part in order to defray any cost associated with implementation.

(b) Additionally, upon recommendation of the military reservation traffic board, the military reservation commander may authorize, with coordination of the Director of State Resources, disbursement of funds obtained through implementation of this part for such other purposes as are authorized by this part.

(c) The Director of the Department of State Resources may designate the use of such forms as are appropriate to maintain accountability of funds.

**Authority.** Arkansas Code § 12-63-207.