

changes, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

(Added Pub. L. 104-106, div. A, title III, §336(a)(1), Feb. 10, 1996, 110 Stat. 263, §2490a; amended Pub. L. 105-85, div. A, title X, §1061(d), Nov. 18, 1997, 111 Stat. 1891; Pub. L. 108-136, div. A, title X, §1043(c)(2), Nov. 24, 2003, 117 Stat. 1611; renumbered §2488, Pub. L. 108-375, div. A, title VI, §651(b)(3), Oct. 28, 2004, 118 Stat. 1971; Pub. L. 111-383, div. A, title X, §1075(b)(37), Jan. 7, 2011, 124 Stat. 4371.)

REFERENCES IN TEXT

Section 375 of the National Defense Authorization Act for Fiscal Year 1995, referred to in subsec. (c), is section 375 of Pub. L. 103-337, div. A, title III, Oct. 5, 1994, 108 Stat. 2736, as amended, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 2488 was renumbered section 2495 of this title.

AMENDMENTS

2011—Subsec. (f). Pub. L. 111-383 substituted “armed forces” for “Armed Forces” in two places.

2004—Pub. L. 108-375 renumbered section 2490a of this title as this section.

2003—Subsec. (f). Pub. L. 108-136, §1043(c)(2), substituted “NONAPPROPRIATED FUND INSTRUMENTALITY DEFINED.—In this section, the term” for “DEFINITIONS.—In this section:

“(1) The term” and struck out par. (2) which read as follows: “The term ‘base closure law’ has the meaning given such term by section 2667(h) of this title.”

1997—Subsec. (f)(2). Pub. L. 105-85 substituted “section 2667(h)” for “section 2667(g)”.

§ 2489. Overseas commissary and exchange stores: access and purchase restrictions

(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may establish restrictions on the ability of eligible patrons of commissary and exchange stores located outside of the United States to purchase certain merchandise items (or the quantity of certain merchandise items) otherwise included within an authorized merchandise category if the Secretary determines that such restrictions are necessary to prevent the resale of such merchandise in violation of treaty obligations of the United States or host nation laws (to the extent such laws are not inconsistent with United States laws).

(2) In establishing a quantity or other restriction, the Secretary—

(A) may not discriminate among the various categories of eligible patrons of the commissary and exchange system; and

(B) shall ensure that the restriction is consistent with the purpose of the overseas commissary and exchange system to provide reasonable access for eligible patrons to purchase merchandise items made in the United States.

(b) CONTROLLED ITEM LISTS.—For each location outside the United States that is served by the commissary system or the exchange system, the Secretary of Defense may maintain a list of

controlled merchandise items, except that, after October 17, 1998, the Secretary may not change the list to add a merchandise item unless, before making the change, the Secretary submits to Congress a notice of the proposed addition and the reasons for the addition of the item.

(c) NOTIFICATION OF CONDITIONS NECESSITATING RESTRICTIONS.—The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.

(Added Pub. L. 105-261, div. A, title III, §365(a), Oct. 17, 1998, 112 Stat. 1986, §2492; amended Pub. L. 106-65, div. A, title X, §1066(a)(22), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107-314, div. A, title X, §1041(a)(15), Dec. 2, 2002, 116 Stat. 2645; renumbered §2489, Pub. L. 108-375, div. A, title VI, §651(b)(3), Oct. 28, 2004, 118 Stat. 1971.)

PRIOR PROVISIONS

A prior section 2489 was renumbered section 2495a of this title.

A prior section 2489a was renumbered section 2495b of this title.

A prior section 2490 was renumbered section 2868 of this title.

A prior section 2490a was renumbered section 2488 of this title.

Another prior section 2490a was renumbered section 2783 of this title.

AMENDMENTS

2004—Pub. L. 108-375 renumbered section 2492 of this title as this section.

2002—Subsec. (c). Pub. L. 107-314 added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: “The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.”

1999—Subsec. (b). Pub. L. 106-65 substituted “October 17, 1998” for “the date of the enactment of this section”.

SUBCHAPTER III—MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES

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- 2491. Uniform funding and management of morale, welfare, and recreation programs.
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2494.	Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes.
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2495b.	Sale or rental of sexually explicit material prohibited.

AMENDMENTS

2009—Pub. L. 111–84, div. A, title VI, § 651(b), Oct. 28, 2009, 123 Stat. 2369, added item 2492a.

2004—Pub. L. 108–375, div. A, title VI, § 651(c)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2491 to 2495b.

§ 2491. Uniform funding and management of morale, welfare, and recreation programs

(a) **AUTHORITY FOR UNIFORM FUNDING AND MANAGEMENT.**—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) **CONDITIONS ON AVAILABILITY.**—Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

(c) **CONVERSION OF EMPLOYMENT POSITIONS.**—(1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position because of the failure to provide such consent.

(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.

(4) In this subsection, the term “an employee of a nonappropriated fund instrumentality” means an employee described in section 2105(c) of title 5.

(Added Pub. L. 107–314, div. A, title III, § 323(a), Dec. 2, 2002, 116 Stat. 2510, § 2494; renumbered § 2491, Pub. L. 108–375, div. A, title VI, § 651(c)(2), Oct. 28, 2004, 118 Stat. 1972.)

PRIOR PROVISIONS

A prior section 2491 was renumbered section 2500 of this title.

AMENDMENTS

2004—Pub. L. 108–375 renumbered section 2494 of this title as this section.

§ 2491a. Department of Defense golf courses: limitation on use of appropriated funds

(a) **LIMITATION.**—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to equip, operate, or maintain a golf course at a facility or installation of the Department of Defense.

(b) **EXCEPTIONS.**—(1) Subsection (a) does not apply to a golf course at a facility or installation outside the United States or at a facility or installation inside the United States at a location designated by the Secretary of Defense as a remote and isolated location.

(2) The Secretary of Defense shall prescribe regulations governing the use of appropriated funds under this subsection.

(Added Pub. L. 103–160, div. A, title III, § 312(a), Nov. 30, 1993, 107 Stat. 1618, § 2246; renumbered § 2491a, Pub. L. 108–375, div. A, title VI, § 651(d), Oct. 28, 2004, 118 Stat. 1972.)

AMENDMENTS

2004—Pub. L. 108–375 renumbered section 2246 of this title as this section.

§ 2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation

(a) **LIMITATION.**—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to operate the Armed Forces Recreation Center, Europe.

(b) **EXCEPTION.**—Subsection (a) does not apply to the use of funds for the payment of utilities, the maintenance, repair, or renovation of real property, and the transportation of products made in the United States.

(Added Pub. L. 103–337, div. A, title III, § 372(a), Oct. 5, 1994, 108 Stat. 2735, § 2247; amended Pub. L. 105–85, div. A, title III, § 375, Nov. 18, 1997, 111 Stat. 1708; renumbered § 2491b, Pub. L. 108–375, div. A, title VI, § 651(d), Oct. 28, 2004, 118 Stat. 1972.)

AMENDMENTS

2004—Pub. L. 108–375 renumbered section 2247 of this title as this section.

1997—Subsec. (b). Pub. L. 105–85 substituted “the maintenance, repair, or renovation of real property, and the transportation” for “real property maintenance, and transportation”.

§ 2491c. Retention of morale, welfare, and recreation funds by military installations: limitation

Amounts may not be retained in a nonappropriated morale, welfare, and recreation ac-