

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7725	46 U.S.C. 794 (1st, and 9th (less proviso), sentences).	July 3, 1944, ch. 399, § 4 (1st, and 9th (less proviso), sentences), 58 Stat. 724.

The words “or suspension”, “either of prosecution of the suit or of the taking of testimony”, “during which the prosecution of such suit or taking of such deposition or production of evidence would tend to endanger the security of the United States or of such operations in time of war, or to interfere therewith”, “as the case may be”, and “in relation to which it is made shall continue in effect” are omitted as surplusage.

§ 7726. Reconsideration of stay

(a) A claimant or party who considers himself adversely affected by a stay under this chapter may serve a written notice on the Secretary of the Navy at Washington, D.C., requesting him to reconsider the stay previously issued and to issue a new certificate. The notice shall identify the stay by means of an attached copy of the certificate of the Secretary or a sufficient description of the stay. The notice may not contain any recital of the facts or circumstances involved.

(b) Within ten days after receiving notice under this section, the Secretary or his designee shall hold a secret meeting at which the claimant or party, or his representative, may present any facts and arguments he thinks material.

(c) Within ten days after a hearing under this section, the Secretary shall file with the court that ordered the stay a new certificate stating whether the stay is then to be terminated or for what period the stay is to continue in effect. If the Secretary fails to file a new certificate, the court, upon application by the claimant or party, shall issue an order directing the Secretary to file a new certificate within a specified time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7726(a)	46 U.S.C. 794 (2d, 3d, and 4th sentences).	July 3, 1944, ch. 399, § 4 (2d, 3d, and 4th sentences), 58 Stat. 724.
7726(b)	46 U.S.C. 794 (5th sentence).	July 3, 1944, ch. 399, § 4 (5th sentence), 58 Stat. 724.
7726(c)	46 U.S.C. 794 (6th and 7th sentences).	July 3, 1944, ch. 399, § 4 (6th and 7th sentences), 58 Stat. 724.

In subsection (a) the words “then in effect”, “upon which the stay is based”, and “for its identification” are omitted as surplusage.

In subsection (b) the words “with respect to whether or not a stay should be issued or maintained” are omitted as surplusage. The words “his designee” are substituted for the words “some official designated by him” for brevity.

In subsection (c) the words “that ordered the stay” are substituted for the words “in which said stay is pending or the court in which the proceeding stayed was instituted” for brevity and clarity.

§ 7727. Duration of stay

A stay of proceedings under this chapter remains in effect for the period specified in the

certificate upon which it was based unless the Secretary of the Navy issues a new certificate under section 7725 or 7726 of this title changing the termination date. However, a stay under this chapter may not remain in force longer than six months after the cessation of hostilities.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7727	46 U.S.C. 791 (1st sentence as applicable to duration of stay, and proviso as applicable to duration of stay). 46 U.S.C. 792 (as applicable to duration of stay). 646 U.S.C. 794 (8th sentence and proviso of 9th sentence).	July 3, 1944, ch. 399, § 1 (1st sentence as applicable to duration of stay, and proviso as applicable to duration of stay), 58 Stat. 723. July 3, 1944, ch. 399, § 2 (as applicable to duration of stay), 58 Stat. 724. July 3, 1944, ch. 399, § 4 (8th sentence and proviso of 9th sentence), 58 Stat. 724.

§ 7728. Restricted certificate

The Secretary of the Navy may restrict a certificate issued under this chapter so that it stays only the taking of testimony of certain witnesses or the production of evidence on certain subjects. The proceedings not stayed may continue.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7728	46 U.S.C. 794 (10th sentence).	July 3, 1944, ch. 399, § 4 (10th sentence), 58 Stat. 724.

The words “The Secretary of the Navy may restrict a certificate” are substituted for the words “Any certificate * * * by the Secretary of the Navy * * * may, in his discretion, be restricted.” The words “the production of” are inserted for clarity. The words “in which event” are omitted as surplusage.

§ 7729. Investigation before issue of certificate

The Secretary of the Navy may not issue a certificate under this chapter until he satisfies himself by investigation that it is necessary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7729	46 U.S.C. 794 (less 1st 10 sentences).	July 3, 1944, ch. 399, § 4 (less 1st 10 sentences), 58 Stat. 724.

§ 7730. Evidence admissible when witness is not available

Whenever the court is satisfied by appropriate evidence or by agreement of counsel that the United States or the claimant is unable after reasonable efforts to secure the testimony of a witness and—

(1) the United States or the claimant has been prevented by a stay under this chapter from examining the witness; or

(2) the United States establishes that it has refrained from bringing a suit or from taking

the testimony of the witness in a pending suit to avoid endangering the security of naval operations or interfering with such operations;

the court shall receive in evidence in place of the testimony of the witness—

(1) the affidavit of the witness duly sworn to before a notary public or other authorized officer; or

(2) the statement or testimony of the witness before a court-martial, a court of inquiry, or an investigation; but the use of such statement or testimony does not, in any litigation, make the remainder of the record admissible or compel the United States to produce the remainder of the record.

The court shall give such weight to the affidavit, statement, or testimony as it considers proper under the circumstances.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7730	46 U.S.C. 795.	July 3, 1944, ch. 399, § 5, 58 Stat. 725.

The words “naval”, “board of investigation”, and “Coast Guard investigation” are omitted as surplusage.

CHAPTER 659—NAVAL MILITIA

Sec.

7851. Composition.
 7852. Appointment and enlistment in reserve components.
 7853. Release from Militia duty upon order to active duty in reserve components.
 7854. Availability of material for Naval Militia.

§ 7851. Composition

The Naval Militia consists of the Naval Militia of the States, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title X, § 1057(a)(11), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7851	50 U.S.C. 1071.	July 9, 1952, ch. 608, § 501, 66 Stat. 500.

AMENDMENTS

2006—Pub. L. 109-163 substituted “States, the District of Columbia, Guam, and the Virgin Islands” for “States, the Territories, and the District of Columbia”.

§ 7852. Appointment and enlistment in reserve components

In the discretion of the Secretary of the Navy, any member of the Naval Militia may be appointed or enlisted in the Navy Reserve or the Marine Corps Reserve in the grade for which he is qualified.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title V, § 515(b)(1)(W), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7852	50 U.S.C. 1072.	July 9, 1952, ch. 608, § 502, 66 Stat. 500.

This section is written to indicate that the Secretary of the Navy has discretion in authorizing the appointment or enlistment in the Naval Reserve of members of the Naval Militia but does not make such appointments or enlistments. Section 593 of this title, based on 50 U.S.C. 942, 943, provides the manner in which all reserve appointments are made, and § 510 of this title, based on 50 U.S.C. 941, 952, 956 provides the authority to enlist persons in the reserve components. As worded, this section removes the conflicting statement of appointing authority, and allows appointments and enlistments to be controlled by these other provisions. The words “rank” and “or rating” are omitted as covered by the word “grade”.

AMENDMENTS

2006—Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

§ 7853. Release from Militia duty upon order to active duty in reserve components

When ordered to active duty, a member of the Navy Reserve or the Marine Corps Reserve who is a member of the Naval Militia is relieved from all service and duty in the Naval Militia from the date of active duty specified in his orders until he is released from active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title V, § 515(b)(1)(X), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7853	50 U.S.C. 1073.	July 9, 1952, ch. 608, § 503, 66 Stat. 500.

The words “in the service of the United States” are omitted as covered by the definition of “active duty” in § 101 of this title. The words “is relieved” are substituted for the words “shall stand relieved”.

AMENDMENTS

2006—Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

§ 7854. Availability of material for Naval Militia

Under regulations prescribed by the Secretary of the Navy, vessels, material, armament, equipment, and other facilities of the Navy and the Marine Corps available to the Navy Reserve and the Marine Corps Reserve may also be made available for issue or loan to any State, the District of Columbia, Guam, or the Virgin Islands for the use of its Naval Militia if—

(1) at least 95 percent of the members of the portion or unit of the Naval Militia to which the facilities would be made available are members of the Navy Reserve or the Marine Corps Reserve; and

(2) the organization, administration, and training of the Naval Militia conform to standards prescribed by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title V, § 515(b)(1)(Y), title X, § 1057(a)(12), Jan. 6, 2006, 119 Stat. 3233, 3441.)