

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-163 substituted “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands” for “State or Territory, Puerto Rico, or the District of Columbia”.

2003—Subsec. (a)(2). Pub. L. 108-136 substituted “members” for “officers”, “Army Staff” for “Army General Staff”, and “the Enlisted Association of the National Guard of the United States, the National Guard Association of the United States,” for “the National Guard Association of the United States”.

1997—Subsec. (b). Pub. L. 105-85 substituted “and housing” for “and quarters”.

1994—Subsec. (c). Pub. L. 103-337 substituted “12402” for “3496 or 8496”.

1988—Subsec. (b). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

1982—Subsec. (c). Pub. L. 97-258 added subsec. (c).

1971—Pub. L. 92-119, §1(a)(1), substituted “Availability” for “Apportionment” in section catchline.

Subsec. (a). Pub. L. 92-119, §1(a)(2), (3), (4), redesignated subsec. (b) as (a) and substituted “appropriation for the National Guard” for “apportioned appropriation”. Former subsec. (a), which provided for apportionment of appropriations for Army National Guard and Air National Guard under prescribed formulas among States, territories, Puerto Rico, Canal Zone, District of Columbia, was struck out.

Subsecs. (b), (c). Pub. L. 92-119, §1(a)(4), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a) and amended.

1967—Subsec. (c). Pub. L. 90-83 substituted “402 and 403” for “251 and 252”.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title V, §514(b), Nov. 24, 2003, 117 Stat. 1460, provided that: “The amendments made by subsection (a) [amending this section] shall not apply with respect to funds appropriated for a fiscal year before fiscal year 2004.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

LIMITATION ON ACTIVITIES UNDER STATE PARTNERSHIP PROGRAM PENDING COMPLIANCE WITH CERTAIN PROGRAM-RELATED REQUIREMENTS

Pub. L. 112-239, div. A, title XII, §1204, Jan. 2, 2013, 126 Stat. 1982, provided that:

“(a) LIMITATION.—If both requirements specified in subsection (b) are not met as of February 28, 2013, no activities may be carried out under the State Partnership Program after that date until both requirements are met.

“(b) REQUIREMENTS.—The requirements specified in this subsection are the following:

“(1) The requirement for the Secretary of Defense to submit to the appropriate congressional committees the final regulations required by subsection (a) of section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2517; 32 U.S.C. 107 note).

“(2) A requirement for the Secretary of Defense to certify to the appropriate congressional committees that appropriate modifications have been made, and appropriate controls have been instituted, to ensure the compliance of the Program with section 1341 of title 31, United States Code (commonly referred to as the ‘Anti-Deficiency Act’), in the future.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ has the meaning given that term in subsection (d) of section 1210 of the National Defense Authorization Act for Fiscal Year 2010.”

AVAILABILITY OF APPROPRIATED FUNDS FOR THE STATE PARTNERSHIP PROGRAM

Pub. L. 111-84, div. A, title XII, §1210, Oct. 28, 2009, 123 Stat. 2517, provided that:

“(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense, in consultation with [the] Secretary of State, shall prescribe regulations regarding the use of funds appropriated to the Department of Defense to pay the costs incurred by the National Guard in conducting activities under the State Partnership Program. The Secretary of Defense shall transmit to the appropriate congressional committees a copy of the regulations not later than 15 days after the date on which the regulations are prescribed under this subsection.

“(b) LIMITATIONS.—

“(1) APPROVAL BY COMMANDER OF COMBATANT COMMAND AND CHIEF OF MISSION.—Funds shall not be available under subsection (a) for activities conducted under the State Partnership Program in a foreign country unless such activities are jointly approved by the commander of the combatant command concerned and the chief of mission concerned.

“(2) PARTICIPATION BY MEMBERS.—Funds shall not be available under subsection (a) for the participation of a member of the National Guard in activities conducted under the State Partnership Program in a foreign country unless the member is on active duty in the Armed Forces at the time of such participation.

“(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, and not later than the end of each of the fiscal years 2010 through 2013, the Secretary of Defense shall submit to the appropriate congressional committees a report describing the civilian engagement activities conducted under the State Partnership Program, including a detailed description of the activities undertaken and funds expended in the previous fiscal year under the State Partnership Program.

“(d) DEFINITION.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

“(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.”

§ 108. Forfeiture of Federal benefits

If, within a time fixed by the President, a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the National Guard of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600; Pub. L. 103-337, div. A, title IX, §904(c), Oct. 5, 1994, 108 Stat. 2827.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
108	32:24.	June 3, 1916, ch. 134, §116, 39 Stat. 212.

The words “does not comply” are substituted for the words “shall * * * have failed or refused to comply”. The words “a requirement of, or regulation prescribed under, this title” are substituted for the words “any requirement of this title, or any regulation promulgated

thereunder and in aid thereof by the President or the Secretary of the Army". The words "money or any other aid" are substituted for the words "pecuniary or other aid". The words "or provided by this title or any other" are omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103-337 amended section generally. Prior to amendment, section read as follows: "If, within a time to be fixed by the President, a State does not comply with or enforce a requirement of, or regulation prescribed under, this title its National Guard is barred, wholly or partly as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103-337, set out as an Effective Date note under section 10501 of Title 10, Armed Forces.

§ 109. Maintenance of other troops

(a) In time of peace, a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands may maintain no troops other than those of its National Guard and defense forces authorized by subsection (c).

(b) Nothing in this title limits the right of a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands to use its National Guard or its defense forces authorized by subsection (c) within its borders in time of peace, or prevents it from organizing and maintaining police or constabulary.

(c) In addition to its National Guard, if any, a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands may, as provided by its laws, organize and maintain defense forces. A defense force established under this section may be used within the jurisdiction concerned, as its chief executive (or commanding general in the case of the District of Columbia) considers necessary, but it may not be called, ordered, or drafted into the armed forces.

(d) A member of a defense force established under subsection (c) is not, because of that membership, exempt from service in the armed forces, nor is he entitled to pay, allowances, subsistence, transportation, or medical care or treatment, from funds of the United States.

(e) A person may not become a member of a defense force established under subsection (c) if he is a member of a reserve component of the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600; Pub. L. 85-861, §2(2), Sept. 2, 1958, 72 Stat. 1542; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109-163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 111-383, div. A, title X, §1075(h)(4)(B), Jan. 7, 2011, 124 Stat. 4377.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
109(a)	32:194(a) (1st sentence). 32:194(c) (as applicable to 32:194(a) (1st sentence)).	June 3, 1916, ch. 134, §61 (less (b)); restated Oct. 21, 1940, ch. 904 (less last 3 provisos); restated Aug. 18, 1941, ch. 363 (less last 3 provisos); restated Oct. 1, 1942, ch. 570 (less (b)); restated June 26, 1944, ch. 279 (less (b)); restated Sept. 27, 1950, ch. 1058 (less (b)), 64 Stat. 1072.
109(b)	32:194(a) (less 1st sentence). 32:194(c) (less applicability to 32:194(a) (1st sentence)).	

In subsection (a), the words "those of its National Guard" are substituted for the words "as authorized in accordance with the organization prescribed under this Act".

In subsections (a) and (b), the provisions of 32:194(c) are exhausted by the enumeration of the jurisdictions named.

In subsection (b), the words "Nothing in this title limits" are substituted for the words "Nothing contained in this Act shall be construed to limit".

1958 ACT

Section of title 32	Source (U.S. Code)	Source (Statutes at Large)
109(c)	32 App.:194(b) (less 4th and last sentences).	Aug. 11, 1955, ch. 802, 69 Stat. 686.
109(d)	32 App.:194(b) (4th sentence).	
109(e)	32 App.:194(b) (last sentence).	

In subsection (c), the words "heretofore authorized by this Act [sic]", "as such", and "in any manner" are omitted as surplusage.

In subsection (d), the words "under any Federal law" are omitted since only Federal law could require service in the armed forces. The word "military" is omitted as surplusage.

In subsection (e), the words "defense force" are substituted for the words "organized militia" for accuracy and to conform to subsection (c). The words "reserve component of the armed forces" are substituted for the words "Reserve Forces as defined in section 901 of Title 50", since that term is not defined in the Armed Forces Reserve Act of 1952.

AMENDMENTS

2011—Subsecs. (a) to (c). Pub. L. 111-383 amended directory language of Pub. L. 109-163, §1057(b)(3). See 2006 Amendment note below.

2006—Subsecs. (a) to (c). Pub. L. 109-163, §1057(b)(3), as amended by Pub. L. 111-383, substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, the Virgin Islands, or the District of Columbia".

1988—Subsecs. (a) to (c). Pub. L. 100-456 struck out "the Canal Zone," after "Virgin Islands."

1958—Subsecs. (a), (b). Pub. L. 85-861, §2(2)(A), substituted "defense forces authorized by subsection (c)" for "State defense forces".

Subsecs. (c) to (e). Pub. L. 85-861, §2(2)(B), added subsecs. (c) to (e).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, §1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that the amendment made by section 1075(h)(4)(B) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109-163 as enacted.

§ 110. Regulations

The President shall prescribe regulations, and issue orders, necessary to organize, discipline, and govern the National Guard.