

missioned warrant officer," struck out the comma before "may", and added subsec. (b).

1975—Pub. L. 93-586 inserted reference to chapter 21 of title 14.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1627 and 1675(d)(2) of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service

(a) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 18, but less than 19, years of service computed under section 12732 of this title, he may not be discharged or transferred from an active status under chapter 573, 1407, or 1409 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

- (1) the date on which he is entitled to be credited with 20 years of service computed under section 12732 of this title; or
- (2) the third anniversary of the date on which he would otherwise be discharged or transferred from an active status.

(b) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 19, but less than 20, years of service computed under section 12732 of this title, he may not be discharged or transferred from an active status under chapter 573, 1407, or 1409 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

- (1) the date on which he is entitled to be credited with 20 years of service computed under section 12732 of this title; or
- (2) the second anniversary of the date on which he would otherwise be discharged or transferred from an active status.

(c) An officer who is retained in an active status under subsection (a) or (b) is an additional number to those otherwise authorized.

(d) Subsections (a) and (b) do not apply to—

- (1) officers who are discharged or transferred from an active status for physical disability, for cause, or because they have reached the age at which transfer from an active status or discharge is required by law; or
- (2) commissioned warrant officers.

(e)(1) A reserve commissioned officer on active duty (other than for training) or full-time National Guard duty (other than full-time National Guard duty for training only) who, on the date on which the officer would otherwise be removed from an active status under section 6389, 14513, or 14514 of this title or section 740 of title 14, is within two years of qualifying for retire-

ment under section 3911, 6323, or 8911 of this title may, in the discretion of the Secretary concerned and subject to paragraph (2), be retained on that duty for a period of not more than two years.

(2) An officer may be retained on active duty or full-time National Guard duty under paragraph (1) only if—

- (A) at the end of the period for which the officer is retained the officer will be qualified for retirement under section 3911, 6323, or 8911 of this title; and
- (B) the officer will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14.

(3) An officer who is retained on active duty or full-time National Guard duty under this section may not be removed from an active status while on that duty.

(Added Pub. L. 85-861, §1(22)(B), Sept. 2, 1958, 72 Stat. 1444, §1006; amended Pub. L. 86-559, §1(3)(A), June 30, 1960, 74 Stat. 264; Pub. L. 87-651, title I, §105, Sept. 7, 1962, 76 Stat. 508; Pub. L. 90-130, §1(4), Nov. 8, 1967, 81 Stat. 374; Pub. L. 93-586, §3, Jan. 2, 1975, 88 Stat. 1920; Pub. L. 96-322, §2, Aug. 4, 1980, 94 Stat. 1015; Pub. L. 96-513, title V, §511(30), Dec. 12, 1980, 94 Stat. 2922; renumbered §12646 and amended Pub. L. 103-337, div. A, title XVI, §§1662(h)(2), 1675(d)(3), Oct. 5, 1994, 108 Stat. 2996, 3018.)

HISTORICAL AND REVISION NOTES
1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1006(a)	50:1195(a) (less last 30 words).	Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §205), 205, 307(c), 503(c), 68 Stat. 1149, 1151, 1155, 1173; June 30, 1955, ch. 247, §1(b), 69 Stat. 218.
1006(b)	50:1195(b) (less last 30 words).	
1006(c)	50:1227(c). 50:1333(c).	
1006(d)	50:1181(1) (as applicable to 50:1195). 50:1195(a) (last 30 words). 50:1195(b) (last 30 words). 50:1195(c).	
1006(e)		

In subsections (a) and (b), the words "Notwithstanding any other provisions of this chapter, except as provided in sections 1265 and 1279 of this title" and "has been credited with, or" are omitted as surplusage. The words "entitled to be" in clause (1) are inserted for clarity.

In subsection (e), the words "at the end of that period" are substituted for the word "then" for clarity. The words "before the end of that period" are substituted for the word "earlier" for clarity.

1962 ACT

The change reflects the repeal of section 611 of the Reserve Officer Personnel Act of 1954, ch. 1257 (68 Stat. 1186), formerly section 1391 of title 50, and its restatement in section 787 of title 14 (see sections 5(2) and 36A of the Act of September 2, 1958, Pub. L. 85-861 (72 Stat. 1547 and 1569)).

AMENDMENTS

1994—Pub. L. 103-337, §1662(h)(2), renumbered section 1006 of this title as this section.

Subsecs. (a), (b), Pub. L. 103-337, §1675(d)(3)(B), substituted "573, 1407, or 1409" for "337, 361, 363, 573, 837, 861, or 863".

Pub. L. 103-337, §1675(d)(3)(A), substituted "12732" for "1332" wherever appearing.

Subsec. (e). Pub. L. 103-337, §1675(d)(3)(C), added subsec. (e) and struck out former subsec. (e) which read as

follows: “A reserve commissioned officer on active duty (other than for training) who, on the date on which he would otherwise be removed from an active status under section 3846, 3848, 3851, 3852, 6389, 6397, 6403, 6410, 8846, 8848, 8851, or 8852 of this title or section 740 of title 14, and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, may, in the discretion of the Secretary concerned, be retained on active duty for a period of not more than two years, if at the end of that period he will be qualified for retirement under one of those sections and will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14. An officer who is retained on active duty under this section may not be removed from an active status while he is on that duty. For officers covered by section 3846, 3848, 3851, or 3852 of this title, the ages at which transfer from an active status or discharge is required are those set forth in section 3843, 3844, or 3845 of this title, or section 21(e) of Public Law 85–861, as the case may be.”

1980—Subsec. (e). Pub. L. 96–513 substituted “Public Law 85–861” for “the Act enacting this section”.

Pub. L. 96–322 substituted “section 740 of title 14” for “section 787 of title 14”.

1975—Subsecs. (a), (b). Pub. L. 93–586, §3(1), inserted reference to chapter 21 of title 14.

Subsec. (c). Pub. L. 93–586, §3(2), substituted “An officer who is retained” for “An officer of the Army or the Air Force who is retained”.

Subsec. (e). Pub. L. 93–586, §3(3), substituted “discharge is required by this title or title 14” for “discharge is required by this title”.

1967—Subsec. (e). Pub. L. 90–130 struck out references to sections 3847 and 8847 of this title.

1962—Subsec. (e). Pub. L. 87–651 substituted “section 787 of title 14” for “section 1391 of title 50”.

1960—Subsec. (e). Pub. L. 86–559 struck out references to sections 3849 and 8849 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1662(h)(2) and 1675(d)(3)(A) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1675(d)(3)(B), (C) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

§ 12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers

Notwithstanding chapters 573, 1407, and 1409 of this title, a reserve commissioned officer, other than a commissioned warrant officer, who is assigned to the Selective Service System or who is a property and fiscal officer appointed, designated, or detailed under section 708 of title 32, may be retained in an active status in that assignment or position until he becomes 62 years of age.

(Added Pub. L. 85–861, §1(22)(B), Sept. 2, 1958, 72 Stat. 1445, §1007; amended Pub. L. 86–559, §1(3)(B), June 30, 1960, 74 Stat. 265; renumbered §12647 and amended Pub. L. 103–337, div. A, title XVI, §§1662(h)(2), 1675(d)(4), Oct. 5, 1994, 108 Stat. 2996, 3018; Pub. L. 110–417, [div. A], title V, §514(a), Oct. 14, 2008, 122 Stat. 4441.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1007	50:1181(1) (as applicable to 50:1202). 50:1202.	Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §212), 212, 68 Stat. 1149, 1153.

The words “this title” are substituted for the words “this chapter”, since the provisions of this title requiring transfer from an active status are based on the source statute for this section (the Reserve Officer Personnel Act of 1954).

AMENDMENTS

2008—Pub. L. 110–417 substituted “62 years” for “60 years”.

1994—Pub. L. 103–337, §1675(d)(4), substituted “573, 1407, and 1409” for “337, 363, 573, 837, and 863”.

Pub. L. 103–337, §1662(h)(2), renumbered section 1007 of this title as this section.

1960—Pub. L. 86–559 inserted “or serving as United States property and fiscal officers” in section catchline, and inserted provisions in text authorizing retention of reserve commissioned officers who are property and fiscal officers, appointed, designated, or detailed under section 708 of title 32.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1675(d)(4) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

CHAPTER 1221—SEPARATION

Sec.

12681.	Reserves: discharge authority.
12682.	Reserves: discharge upon becoming ordained minister of religion.
12683.	Reserve officers: limitation on involuntary separation.
12684.	Reserves: separation for absence without authority or sentence to imprisonment.
12685.	Reserves separated for cause: character of discharge.
12686.	Reserves on active duty within two years of retirement eligibility: limitation on release from active duty.
12687.	Reserves under confinement by sentence of court-martial: separation after six months confinement.

AMENDMENTS

1996—Pub. L. 104–106, div. A, title V, §563(a)(2)(B), Feb. 10, 1996, 110 Stat. 325, added item 12687.

§ 12681. Reserves: discharge authority

Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2997.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1162(a) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).