

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title III, §375(b), Oct. 17, 1998, 112 Stat. 1993, provided that: “Subsection (b)(1)(B) of section 113 of title 32, United States Code (as added by subsection (a) of this section), does not apply to—

- “(1) financial assistance provided under that section before October 1, 1998; or
- “(2) financial assistance for an activity that, before May 9, 1998, the Secretary of the Army identified in writing as being under consideration for supporting with financial assistance under that section.”

§ 114. Funeral honors functions at funerals for veterans

Subject to such regulations and restrictions as may be prescribed by the Secretary concerned, the performance of funeral honors functions by members of the National Guard at funerals for veterans of the armed forces may be treated by the Secretary concerned as a Federal function for which appropriated funds may be used. Any such performance of funeral honors functions at such a funeral may not be considered to be a period of drill or training, but may be performed as funeral honors duty under section 115 of this title.

(Added Pub. L. 105-85, div. A, title V, §517(a)(1), Nov. 18, 1997, 111 Stat. 1733; amended Pub. L. 105-261, div. A, title V, §567(d), Oct. 17, 1998, 112 Stat. 2031; Pub. L. 106-65, div. A, title V, §578(g)(1), (k)(3)(A), Oct. 5, 1999, 113 Stat. 627, 631.)

AMENDMENTS

1999—Pub. L. 106-65, in section catchline, substituted “Funeral honors” for “Honor guard” and, in text, substituted “funeral honors functions” for “honor guard functions” in two places and “drill or training, but may be performed as funeral honors duty under section 115 of this title” for “drill or training otherwise required”.

1998—Pub. L. 105-261 designated subsec. (a) as entire section and struck out subsec. (b) which read as follows: “This section does not authorize additional appropriations for any fiscal year. Any expense of the National Guard that is incurred by reason of this section shall be paid from appropriations otherwise available for the National Guard.”

§ 115. Funeral honors duty performed as a Federal function

(a) ORDER TO DUTY.—A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to funeral honors duty, with the consent of the member, to prepare for or perform funeral honors functions at the funeral of a veteran under section 1491 of title 10. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to perform funeral honors functions under this section without the consent of the Governor or other appropriate authority of the State concerned. Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 495 of title 37.

(b) SERVICE CREDIT.—A member ordered to funeral honors duty under this section shall be re-

quired to perform a minimum of two hours of such duty in order to receive—

- (1) service credit under section 12732(a)(2)(E) of title 10; and
- (2) as directed by the Secretary concerned, either—
 - (A) the allowance under section 495 of title 37; or
 - (B) compensation under section 206 of title 37.

(c) REIMBURSABLE EXPENSES.—A member who performs funeral honors duty under this section may be reimbursed for travel and transportation expenses incurred in conjunction with such duty as authorized under chapter 7 of title 37 if such duty is performed at a location 50 miles or more from the member’s residence.

(d) REGULATIONS.—The exercise of authority under subsection (a) is subject to regulations prescribed by the Secretary of Defense.

(Added Pub. L. 106-65, div. A, title V, §578(g)(2), Oct. 5, 1999, 113 Stat. 627; amended Pub. L. 106-398, §1 [[div. A], title V, §575(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-138; Pub. L. 107-107, div. A, title V, §562(b), Dec. 28, 2001, 115 Stat. 1119; Pub. L. 112-81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

AMENDMENTS

2013—Subsecs. (a), (b)(2)(A). Pub. L. 112-239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, §631(f)(4)(A). See 2011 Amendment note below.

2011—Subsecs. (a), (b)(2)(A). Pub. L. 112-81, §631(f)(4)(A), as amended by Pub. L. 112-239, §1076(a)(9), substituted “495” for “435”.

2001—Subsec. (a). Pub. L. 107-107 inserted at end “Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.”

2000—Subsec. (b)(2). Pub. L. 106-398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “if authorized by the Secretary concerned, the allowance under section 435 of title 37.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 applicable to funeral honors duty performed on or after Oct. 30, 2000, see section 562(c) of Pub. L. 107-107, set out as a note under section 12503 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 applicable with respect to funeral honors duty performed on or after Oct. 1, 2000, see section 1 [[div. A], title V, §575(c)] of Pub. L. 106-398, set out as a note under section 12503 of Title 10, Armed Forces.

CHAPTER 3—PERSONNEL

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328. Active Guard and Reserve duty: Governor's authority.
[329 to 335. Repealed.]

AMENDMENTS

2006—Pub. L. 109-364, div. A, title V, §526(b), Oct. 17, 2006, 120 Stat. 2196, added item 328.

2002—Pub. L. 107-314, div. A, title V, §512(d), Dec. 2, 2002, 116 Stat. 2537, added item 327 and struck out former items 327 “General courts-martial of National Guard not in Federal service”, 328 “Special courts-martial of National Guard not in Federal service”, 329 “Summary courts-martial of National Guard not in Federal service”, 330 “Confinement instead of fine”, 331 “Dismissal or dishonorable discharge”, 332 “Compelling attendance of accused and witnesses”, and 333 “Execution of process and sentence”.

1994—Pub. L. 103-337, div. A, title XVI, §1676(a)(4), Oct. 5, 1994, 108 Stat. 3019, substituted “National Guard officers:” for “officers: Army National Guard;” in items 309 and 310.

1986—Pub. L. 99-661, div. A, title VI, §604(f)(2)(B), Nov. 14, 1986, 100 Stat. 3878, struck out item 318 “Compensation for disablement during training”, item 319 “Compensation for disablement during training when not covered by section 318 of this title”, item 320 “Hospitalization: when Secretary may require”, and item 321 “Death gratuity”.

1984—Pub. L. 98-525, title IV, §414(b)(2)(B), Oct. 19, 1984, 98 Stat. 2519, struck out item 335 “Status of certain members performing full-time duty”.

1983—Pub. L. 98-94, title V, §504(b)(2), Sept. 24, 1983, 97 Stat. 632, added item 335.

1981—Pub. L. 97-124, §3, Dec. 29, 1981, 95 Stat. 1666, struck out item 334 “Payment of malpractice liability of National Guard Medical personnel”.

1980—Pub. L. 96-513, title V, §515(1), Dec. 12, 1980, 94 Stat. 2937, inserted “of officers” after “recognition” in item 307.

1976—Pub. L. 94-464, §2(c), Oct. 8, 1976, 90 Stat. 1988, added item 334.

1961—Pub. L. 87-378, §5(2), Oct. 4, 1961, 75 Stat. 808, inserted “, reenlistments, and extensions” in item 302.

1958—Pub. L. 85-861, §2(8), Sept. 2, 1958, 72 Stat. 1544, added items 309 and 310.

REMOVAL OF RESTRICTIONS ON THE TRANSFER OF OFFICERS BETWEEN THE ACTIVE AND INACTIVE NATIONAL GUARD

Pub. L. 113-66, div. A, title V, §512, Dec. 26, 2013, 127 Stat. 752, provided that:

“(a) ARMY NATIONAL GUARD.—During the period ending on December 31, 2016, under regulations prescribed by the Secretary of the Army:

“(1) An officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard.

“(2) An officer of the Army National Guard transferred to the inactive Army National Guard pursuant to paragraph (1) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit.

“(b) AIR NATIONAL GUARD.—During the period ending on December 31, 2016, under regulations prescribed by the Secretary of the Air Force:

“(1) An officer of the Air National Guard who fills a vacancy in a federally recognized unit of the Air National Guard may be transferred from the active Air National Guard to the inactive Air National Guard.

“(2) An officer of the Air National Guard transferred to the inactive Air National Guard pursuant to paragraph (1) may be transferred from the inactive Air National Guard to the active Air National Guard to fill a vacancy in a federally recognized unit.”

§ 301. Federal recognition of enlisted members

To be eligible for Federal recognition as an enlisted member of the National Guard, a person must have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved. He becomes federally recognized upon enlisting in a federally recognized unit or organization of the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
301	50:1113(a) (as applicable to enlisted members).	July 9, 1952, ch. 608, §703(a) (as applicable to enlisted members), 66 Stat. 502.

§ 302. Enlistments, reenlistments, and extensions

(a) Under regulations to be prescribed by the Secretary concerned, original enlistments in the National Guard may be accepted for—

(1) any specified term, not less than three years, for persons who have not served in an armed force; or

(2) any specified term, not less than one year, for persons who have served in any armed force.

(b) Under regulations to be prescribed by the Secretary concerned, reenlistment in the National Guard may be accepted for any specified period, or, if the person last served in one of the highest five enlisted grades, for an unspecified period.

(c) Enlistments or reenlistments in the National Guard may be extended—

(1) under regulations to be prescribed by the Secretary concerned, at the request of the