

A prior section 2482a was renumbered section 2492 of this title.

AMENDMENTS

2011—Subsec. (d)(1). Pub. L. 112-81 inserted “in the United States” after “commissary store”.

PROHIBITION ON CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEPARTMENT OF DEFENSE RETAIL SYSTEMS

Pub. L. 105-261, div. A, title III, § 367, Oct. 17, 1998, 112 Stat. 1987, which provided that the operation and administration of the defense retail systems could not be consolidated or otherwise merged unless the consolidation or merger was specifically authorized by a law enacted after Oct. 17, 1998, was repealed by Pub. L. 108-375, div. A, title VI, § 651(e)(3), Oct. 28, 2004, 118 Stat. 1972.

§ 2483. Commissary stores: use of appropriated funds to cover operating expenses

(a) OPERATION OF AGENCY AND SYSTEM.—Except as otherwise provided in this title, the operation of the Defense Commissary Agency and the defense commissary system shall be funded using such amounts as are appropriated for such purpose.

(b) OPERATING EXPENSES OF COMMISSARY STORES.—Appropriated funds shall be used to cover the expenses of operating commissary stores and central product processing facilities of the defense commissary system. For purposes of this subsection, operating expenses include the following:

- (1) Salaries and wages of employees of the United States, host nations, and contractors supporting commissary store operations.
- (2) Utilities.
- (3) Communications.
- (4) Operating supplies and services.
- (5) Second destination transportation costs within or outside the United States.
- (6) Any cost associated with above-store-level management or other indirect support of a commissary store or a central product processing facility, including equipment maintenance and information technology costs.

(c) SUPPLEMENTAL FUNDS FOR COMMISSARY OPERATIONS.—Amounts appropriated to cover the expenses of operating the Defense Commissary Agency and the defense commissary system may be supplemented with additional funds from manufacturers' coupon redemption fees, handling fees for tobacco products, and other amounts received as reimbursement for other support activities provided by commissary activities.

(Added Pub. L. 98-525, title XIV, § 1401(i)(1), Oct. 19, 1984, 98 Stat. 2619, § 2484; amended Pub. L. 106-398, § 1 [[div. A], title III, § 331(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-59; Pub. L. 108-136, div. A, title VI, § 654, Nov. 24, 2003, 117 Stat. 1523; renumbered § 2483, Pub. L. 108-375, div. A, title VI, § 651(a)(2), (4), Oct. 28, 2004, 118 Stat. 1964, 1966.)

PRIOR PROVISIONS

A prior section 2483, added Pub. L. 107-107, div. A, title III, § 332(a), Dec. 28, 2001, 115 Stat. 1058, related to reimbursement for use of commissary facilities by military departments, prior to repeal by Pub. L. 108-375, div. A, title VI, § 651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

Another prior section 2483 was renumbered section 2916 of this title.

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8010], 98 Stat. 1904, 1924.

Dec. 8, 1983, Pub. L. 98-212, title VII, § 713, 97 Stat. 1440.

Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 714], 96 Stat. 1833, 1852.

Dec. 29, 1981, Pub. L. 97-114, title VII, § 714, 95 Stat. 1580.

Dec. 15, 1980, Pub. L. 96-527, title VII, § 715, 94 Stat. 3083.

Dec. 21, 1979, Pub. L. 96-154, title VII, § 715, 93 Stat. 1155.

Oct. 13, 1978, Pub. L. 95-457, title VIII, § 815, 92 Stat. 1246.

Sept. 21, 1977, Pub. L. 95-111, title VIII, § 814, 91 Stat. 902.

Sept. 22, 1976, Pub. L. 94-419, title VII, § 714, 90 Stat. 1293.

Feb. 9, 1976, Pub. L. 94-212, title VII, § 714, 90 Stat. 171.

Oct. 8, 1974, Pub. L. 93-437, title VIII, § 814, 88 Stat. 1227.

Jan. 2, 1974, Pub. L. 93-238, title VII, § 714, 87 Stat. 1040.

Oct. 26, 1972, Pub. L. 92-570, title VII, § 714, 86 Stat. 1198.

Dec. 18, 1971, Pub. L. 92-204, title VII, § 714, 85 Stat. 729.

Jan. 11, 1971, Pub. L. 91-668, title VIII, § 814, 84 Stat. 2032.

Dec. 29, 1969, Pub. L. 91-171, title VI, § 614, 83 Stat. 482.

Oct. 17, 1968, Pub. L. 90-580, title V, § 513, 82 Stat. 1132.

Sept. 29, 1967, Pub. L. 90-96, title VI, § 613, 81 Stat. 244.

Oct. 15, 1966, Pub. L. 89-687, title VI, § 613, 80 Stat. 993.

Sept. 29, 1965, Pub. L. 89-213, title VI, § 613, 79 Stat. 875.

Aug. 19, 1964, Pub. L. 88-446, title V, § 513, 78 Stat. 477.

Oct. 17, 1963, Pub. L. 88-149, title V, § 513, 77 Stat. 266.

Aug. 9, 1962, Pub. L. 87-577, title V, § 513, 76 Stat. 330.

Aug. 17, 1961, Pub. L. 87-144, title VI, § 613, 75 Stat. 377.

July 7, 1960, Pub. L. 86-601, title V, § 513, 74 Stat. 351.

Aug. 18, 1959, Pub. L. 86-166, title VI, § 613, 81 Stat. 380.

Aug. 22, 1958, Pub. L. 85-724, title VI, § 613, 72 Stat. 725.

Aug. 2, 1957, Pub. L. 85-117, title VI, § 614, 71 Stat. 325.

July 2, 1956, ch. 488, title VI, § 614, 70 Stat. 469.

July 13, 1955, ch. 358, title VI, § 617, 69 Stat. 317.

June 30, 1954, ch. 432, title VII, § 717, 68 Stat. 353.

Aug. 1, 1953, ch. 305, title VI, § 624, 67 Stat. 353.

July 10, 1952, ch. 630, title VI, § 627, 66 Stat. 535.

Oct. 18, 1951, ch. 512, title VI, § 628, 65 Stat. 449.

AMENDMENTS

2004—Pub. L. 108-375 renumbered section 2484 of this title as this section.

2003—Subsec. (a). Pub. L. 108-136, § 654(a)(1), substituted “shall” for “may”.

Subsec. (b). Pub. L. 108-136, § 654(a)(2), substituted “shall” for “may” in introductory provisions.

Subsec. (c). Pub. L. 108-136, § 654(b), added subsec. (c).

2000—Pub. L. 106-398 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (d) providing that funds available to the Department of Defense could be used to pay for certain costs in connection with the operation of commissary stores only on a reimbursable basis and allowed transportation and utilities to be furnished for the operation of those stores outside of the United States or in Alaska and Hawaii.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, § 1 [[div. A], title III, § 331(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-59, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2001.”

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

§ 2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing

(a) IN GENERAL.—As provided in section 2481(a) of this title, commissary stores are intended to be similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

(b) AUTHORIZED COMMISSARY MERCHANDISE CATEGORIES.—Merchandise sold in, at, or by commissary stores may include items in the following categories:

- (1) Meat, poultry, seafood, and fresh-water fish.
- (2) Nonalcoholic beverages.
- (3) Produce.
- (4) Grocery food, whether stored chilled, frozen, or at room temperature.
- (5) Dairy products.
- (6) Bakery and delicatessen items.
- (7) Nonfood grocery items.
- (8) Tobacco products.
- (9) Health and beauty aids.
- (10) Magazines and periodicals.

(c) INCLUSION OF OTHER MERCHANDISE ITEMS.—

(1) The Secretary of Defense may authorize the sale in, at, or by commissary stores of merchandise not covered by a category specified in subsection (b). The Secretary shall notify Congress of all merchandise authorized for sale pursuant to this paragraph, as well as the removal of any such authorization.

(2) Notwithstanding paragraph (1), the Department of Defense military resale system shall continue to maintain the exclusive right to operate convenience stores, shopettes, and troop stores, including such stores established to support contingency operations.

(3)(A) A military exchange shall be the vendor for the sale of tobacco products in commissary stores and may be the vendor for such merchandise as may be authorized for sale in commissary stores under paragraph (1). Except as provided in subparagraph (B), subsections (d) and (e) shall not apply to the pricing of such an item when a military exchange serves as the vendor of the item. Commissary store and exchange prices shall be comparable for such an item.

(B) When a military exchange is the vendor of tobacco products or other merchandise authorized for sale in a commissary store under paragraph (1), any revenue above the cost of procuring the merchandise shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).

(d) UNIFORM SALES PRICE SURCHARGE.—The Secretary of Defense shall apply a uniform surcharge equal to five percent on the sales prices established under subsection (e) for each item of merchandise sold in, at, or by commissary stores.

(e) SALES PRICE ESTABLISHMENT.—(1) The Secretary of Defense shall establish the sales price of each item of merchandise sold in, at, or by commissary stores at the level that will recoup the actual product cost of the item.

(2) Any change in the pricing policies for merchandise sold in, at, or by commissary stores shall not take effect until the Secretary of Defense submits written notice of the proposed

change to Congress and a period of 90 days of continuous session of Congress expires following the date on which notice was received. For purposes of this paragraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment or recess of more than three days to a day certain are excluded in a computation of such 90-day period.

(3) The sales price of merchandise and services sold in, at, or by commissary stores shall be adjusted to cover the following:

(A) The cost of first destination commercial transportation of the merchandise in the United States to the place of sale.

(B) The actual or estimated cost of shrinkage, spoilage, and pilferage of merchandise under the control of commissary stores.

(f) PROCUREMENT OF COMMERCIAL ITEMS USING PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—The Secretary of Defense may use the exception provided in section 2304(c)(5) of this title for the procurement of any commercial item (including brand-name and generic items) for resale in, at, or by commissary stores.

(g) SPECIAL RULES FOR CERTAIN MERCHANDISE.—(1) Notwithstanding the general requirement that merchandise sold in, at, or by commissary stores be commissary store inventory, the Secretary of Defense may authorize the sale of tobacco products as noncommissary store inventory. Except as provided in paragraph (2), subsections (d) and (e) shall not apply to the pricing of such merchandise items.

(2) When tobacco products are authorized for sale in a commissary store as noncommissary store inventory, any revenue above the cost of procuring the tobacco products shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).

(h) USE OF SURCHARGE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.—(1)(A) The Secretary of Defense may use the proceeds from the surcharges imposed under subsection (d) only—

(i) to acquire (including acquisition by lease), construct, convert, expand, improve, repair, maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

(ii) to cover environmental evaluation and construction costs related to activities described in clause (i), including costs for surveys, administration, overhead, planning, and design.

(B) In subparagraph (A), the term “physical infrastructure” includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

(2)(A) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of surcharges