

may be on active duty to, respectively: Army, to 3,030, 1,448, and 351 from 2,600, 1,250, and 348; Navy, to 1,065, 520, and 188 from 875, 520, and 185; Air Force, to 575, 476, and 190 from 575, 322, and 190. Marine Corps figures remained unchanged.

1987—Subsec. (a). Pub. L. 100-180, §413(b)(2), in table, increased fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 2,600, 1,250, and 348 from 2,550, 1,152, and 348; Navy, to 875, 520, and 185 from 850, 520, and 185; Air Force, to 575, 322, and 190 from 575, 322, and 184; and Marine Corps, to 110, 75, and 25 from 105, 70, and 25.

Pub. L. 100-180, §413(b)(1), in table, changed fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 2,550, 1,152, and 348 from 2,317, 1,152, and 348; Navy, to 850, 520, and 185 from 850, 520, and 177; Air Force, to 575, 322, and 184 from 476, 318, and 189; and Marine Corps, to 105, 70, and 25 from 100, 60, and 25.

1985—Subsec. (a). Pub. L. 99-145 increased fiscal year limitation on number of reserve officers in grade of Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain who may be on active duty to, respectively: Army, to 2,317, 1,152, and 348 from 2,261, 1,121, and 345; Navy, to 850, 520, and 177 from 823, 520, and 177; Air Force, to 476, 318, and 189, from 471, 293, and 172; and Marine Corps, to 100, 60, and 25 from 100, 50, and 25.

1984—Pub. L. 98-525, §414(a)(4)(B)(i), inserted references to National Guard and to full-time National Guard duty in section catchline.

Subsec. (a). Pub. L. 98-525, §414(a)(4)(A), inserted “or full-time National Guard duty” after “Marine Corps who may be on active duty” and inserted “or full-time National Guard duty (other than for training) under section 502(f) of title 32”.

Pub. L. 98-525, §413(b), increased fiscal year limitation on number of reserve officers in grade of major or lieutenant commander, lieutenant colonel or commander, and colonel or Navy captain who may be on active duty to, respectively: Army, to 2,261, 1,121, and 345 from 1,948, 967, and 338; Air Force, to 471, 293, and 172 from 408, 303, and 171; Marine Corps, to 100, 50, and 25 from 95, 48, and 23. Figures for the Navy remained unchanged.

1983—Subsec. (a). Pub. L. 98-94 increased fiscal year limitation on number of reserve officers in grade major or lieutenant commander; lieutenant colonel or commander; and colonel or Navy captain who may be on active duty to, respectively: Army, to 1,948, 967, and 338 from 1,351, 671, and 234; Navy, to 823, 520, and 177 from 823, 425, and 177; Air Force, to 408, 303, and 171 from 281, 267, and 170; Marine Corps, to 95, 48, and 23 from 95, 40, and 21.

1982—Subsec. (a). Pub. L. 97-252 increased numbers in columns headed “Army”, “Air Force”, and “Marine Corps” from 1,105, 189, and 51 in line for major or lieutenant commander to 1,351, 281, and 95, respectively, from 551, 194, and 35 in line for lieutenant colonel or commander to 671, 267, and 40, respectively, and from 171, 147, and 19 in line for colonel or Navy captain to 234, 170, and 21, respectively.

1981—Subsec. (a). Pub. L. 97-86 increased numbers in columns headed “Army” and “Air Force” from 821 and 170 in line for major or lieutenant commander to 1,105 and 189, respectively, from 503 and 183 in line for lieutenant colonel or commander to 551 and 194, respectively, and from 163 and 146 in line for colonel or Navy captain to 171 and 147, respectively.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title IV, §415(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-94, provided that: “The amendments made by this section [amending this section and section 12012 of this title] shall take effect on October 1, 2000.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title IV, §414(c), Oct. 17, 1998, 112 Stat. 1998, provided that: “The amendments made by this section [amending this section and section 12012 of this title] shall take effect [sic] on October 1, 1998.”

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 this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title IV, §413(b)(2), Nov. 29, 1989, 103 Stat. 1433, provided that the amendment made by that section is effective Oct. 1, 1990.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title IV, §413(b)(2), Dec. 4, 1987, 101 Stat. 1083, provided that the amendment made by that section is effective Oct. 1, 1988.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Oct. 1, 1985, see section 413(c) of Pub. L. 99-145, set out as a note under section 517 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective Oct. 1, 1984, see section 413(c) of Pub. L. 98-525, set out as a note under section 517 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-94 effective Oct. 1, 1983, see section 503(c) of Pub. L. 98-94, set out as a note under section 517 of this title.

§ 12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard

(a) LIMITATIONS.—Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members in each of pay grades of E-8 and E-9 who may be serving on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

| Total number of members of a reserve component serving on full-time reserve component duty: | Number of members of that reserve component who may be serving in the grade of: | |
|---|---|-----|
| | E-8 | E-9 |
| Army Reserve: | | |
| 10,000 | 1,052 | 154 |
| 11,000 | 1,126 | 168 |
| 12,000 | 1,195 | 180 |
| 13,000 | 1,261 | 191 |
| 14,000 | 1,327 | 202 |
| 15,000 | 1,391 | 213 |
| 16,000 | 1,455 | 224 |
| 17,000 | 1,519 | 235 |
| 18,000 | 1,583 | 246 |
| 19,000 | 1,647 | 257 |
| 20,000 | 1,711 | 268 |
| 21,000 | 1,775 | 278 |

| Total number of members of a reserve component serving on full-time reserve component duty: | Number of members of that reserve component who may be serving in the grade of: | |
|---|---|-----|
| | E-8 | E-9 |
| Army National Guard: | | |
| 20,000 | 1,650 | 550 |
| 22,000 | 1,775 | 615 |
| 24,000 | 1,950 | 645 |
| 26,000 | 2,100 | 675 |
| 28,000 | 2,250 | 715 |
| 30,000 | 2,400 | 735 |
| 32,000 | 2,500 | 760 |
| 34,000 | 2,600 | 780 |
| 36,000 | 2,700 | 800 |
| 38,000 | 2,800 | 820 |
| 40,000 | 2,900 | 830 |
| 42,000 | 3,000 | 840 |
| Navy Reserve: | | |
| 10,000 | 340 | 143 |
| 11,000 | 364 | 156 |
| 12,000 | 386 | 169 |
| 13,000 | 407 | 182 |
| 14,000 | 423 | 195 |
| 15,000 | 435 | 208 |
| 16,000 | 447 | 221 |
| 17,000 | 459 | 234 |
| 18,000 | 471 | 247 |
| 19,000 | 483 | 260 |
| 20,000 | 495 | 273 |
| 21,000 | 507 | 286 |
| 22,000 | 519 | 299 |
| 23,000 | 531 | 312 |
| 24,000 | 540 | 325 |
| Marine Corps Reserve: | | |
| 1,100 | 50 | 11 |
| 1,200 | 55 | 12 |
| 1,300 | 60 | 13 |
| 1,400 | 65 | 14 |
| 1,500 | 70 | 15 |
| 1,600 | 75 | 16 |
| 1,700 | 80 | 17 |
| 1,800 | 85 | 18 |
| 1,900 | 89 | 19 |
| 2,000 | 93 | 20 |
| 2,100 | 96 | 21 |
| 2,200 | 99 | 22 |
| 2,300 | 101 | 23 |
| 2,400 | 103 | 24 |
| 2,500 | 105 | 25 |
| 2,600 | 107 | 26 |
| Air Force Reserve: | | |
| 500 | 75 | 40 |
| 1,000 | 145 | 75 |
| 1,500 | 208 | 105 |
| 2,000 | 270 | 130 |
| 2,500 | 325 | 150 |
| 3,000 | 375 | 170 |
| 3,500 | 420 | 190 |
| 4,000 | 460 | 210 |
| 4,500 | 495 | 230 |
| 5,000 | 530 | 250 |
| 5,500 | 565 | 270 |
| 6,000 | 600 | 290 |
| 7,000 | 670 | 330 |
| 8,000 | 740 | 370 |
| 10,000 | 800 | 400 |
| Air National Guard: | | |
| 5,000 | 1,020 | 405 |
| 6,000 | 1,070 | 435 |
| 7,000 | 1,120 | 465 |
| 8,000 | 1,170 | 490 |
| 9,000 | 1,220 | 510 |

| Total number of members of a reserve component serving on full-time reserve component duty: | Number of members of that reserve component who may be serving in the grade of: | |
|---|---|------|
| | E-8 | E-9 |
| 10,000 | 1,270 | 530 |
| 11,000 | 1,320 | 550 |
| 12,000 | 1,370 | 570 |
| 13,000 | 1,420 | 589 |
| 14,000 | 1,470 | 608 |
| 15,000 | 1,520 | 626 |
| 16,000 | 1,570 | 644 |
| 17,000 | 1,620 | 661 |
| 18,000 | 1,670 | 678 |
| 19,000 | 1,720 | 695 |
| 20,000 | 1,770 | 712. |

(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in the first column of the table in subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the table in subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in the table at the same proportion as is reflected in the nearest limit shown in the table.

(c) REALLOCATIONS TO LOWER GRADE.—Whenever the number of members serving in pay grade E-9 for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for pay grade E-8.

(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve enlisted members that may be on active duty or full-time National Guard duty as described in subsection (a) for a reserve component in a pay grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for that grade and reserve component in the table.

(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term “full-time reserve component duty” has the meaning given the term in section 12011(e) of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2987; amended Pub. L. 104-106, div. A, title IV, §414(b), title XV, §1501(b)(10), Feb. 10, 1996, 110 Stat. 288, 496; Pub. L. 105-261, div. A, title IV, §414(b), Oct. 17, 1998, 112 Stat. 1998; Pub. L. 106-65, div. A, title IV,

§ 414(b), Oct. 5, 1999, 113 Stat. 586; Pub. L. 106-398, § 1 [[div. A], title IV, §§ 415(b), 421(c), 424(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-94 to 1654A-96; Pub. L. 107-107, div. A, title IV, § 415(b), Dec. 28, 2001, 115 Stat. 1073; Pub. L. 108-375, div. A, title X, § 1084(d)(34), Oct. 28, 2004, 118 Stat. 2063; Pub. L. 109-163, div. A, title V, § 515(b)(1)(II), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 110-417, [div. A], title V, § 512(c), Oct. 14, 2008, 122 Stat. 4440.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 517(b), (c) of this title, prior to amendment by Pub. L. 103-337, § 1662(a)(4).

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-417 inserted section of table relating to the Army National Guard and struck out corresponding former section.

2006—Subsec. (a). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve” in table.

2004—Subsec. (a). Pub. L. 108-375 inserted colon after “Air National Guard” in table.

2001—Subsec. (a). Pub. L. 107-107 inserted heading and amended text of subsec. (a) generally. Prior to amendment, text consisted of table setting out maximum number of enlisted members in pay grades E-8 and E-9 who may be on active duty (other than for training) or on full-time National Guard duty (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard.

Subsec. (b). Pub. L. 107-107 inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: “Whenever the number of members serving in pay grade E-9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E-8.”

Subsec. (c). Pub. L. 107-107 inserted heading and amended text of subsec. (c) generally. Prior to amendment, text read as follows: “Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section.”

Subsec. (d). Pub. L. 107-107 inserted heading and amended text of subsec. (d) generally. Prior to amendment, text read as follows: “Upon increasing under subsection (c)(2) of section 115 of this title the end strength that is authorized under subsection (a)(1)(B) of that section for a fiscal year for active-duty personnel and full-time National Guard duty personnel of an armed force who are to be paid from funds appropriated for reserve personnel, the Secretary of Defense may increase for that fiscal year the limitation that is set forth in subsection (a) of this section for the number of enlisted members of that armed force serving in any grade if the Secretary determines that such action is in the national interest. The percent of the increase may not exceed the percent by which the Secretary increases that end strength.”

Subsec. (e). Pub. L. 107-107 added subsec. (e).

2000—Subsec. (a). Pub. L. 106-398, § 1 [[div. A], title IV, § 415(b)], amended table generally, increasing the fiscal year limitation on number of enlisted members in the Army in grade of E-9 from 645 to 764 and in grade of E-8 from 2,593 to 2,821, and in the Air Force in grade of E-9 from 405 to 502 and in grade of E-8 from 1,041 to 1,117.

Subsec. (c). Pub. L. 106-398, § 1 [[div. A], title IV, § 421(c)], added subsec. (c).

Subsec. (d). Pub. L. 106-398, § 1 [[div. A], title IV, § 424(b)], added subsec. (d).

1999—Subsec. (a). Pub. L. 106-65 amended table generally, increasing the fiscal year limitation on number of

enlisted members in the Army in grade of E-9 from 623 to 645 and in grade of E-8 from 2,585 to 2,593, and in the Air Force in grade of E-9 from 395 to 405 and in grade of E-8 from 997 to 1,041.

1998—Subsec. (a). Pub. L. 105-261, in table, in grade E-9 increased figure for Army from 603 to 623 and for Air Force from 366 to 395, and in grade E-8 increased figure for Air Force from 890 to 997.

1996—Pub. L. 104-106, § 1501(b)(10), substituted “the National” for “National” in section catchline.

Subsec. (a). Pub. L. 104-106, § 414(b), in table, in grade E-9, increased figure for Army from 569 to 603, for Air Force from 328 to 366, and for Marine Corps from 14 to 20, and in grade E-8, increased figure for Air Force from 840 to 890 and for Marine Corps from 74 to 94. All other figures remained unchanged.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1 [[div. A], title IV, § 415(b)] of Pub. L. 106-398 effective Oct. 1, 2000, see section 1 [[div. A], title IV, § 415(c)] of Pub. L. 106-398, set out as a note under section 12011 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-261 effective Oct. 1, 1998, see section 414(c) of Pub. L. 105-261, set out as a note under section 12011 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1501(b)(10) of 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.

CHAPTER 1203—ENLISTED MEMBERS

| Sec. | Definition. |
|--------|---|
| 12101. | Definition. |
| 12102. | Reserve components: qualifications. |
| 12103. | Reserve components: terms. |
| 12104. | Reserve components: transfers. |
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| 12108. | Enlisted members: discharge or retirement for years of service or for age. |

AMENDMENTS

2001—Pub. L. 107-107, div. A, title V, § 517(f)(2), Dec. 28, 2001, 115 Stat. 1096, added item 12108.

§ 12101. Definition

In this chapter, the term “enlistment” means original enlistment or reenlistment.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(b)(1), Oct. 5, 1994, 108 Stat. 2988.)

EFFECTIVE DATE

Chapter effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 12102. Reserve components: qualifications

(a) To become an enlisted member of a reserve component a person must be enlisted as a Reserve of an armed force and subscribe to the oath prescribed by section 502 of this title, or be transferred to that component according to law. In addition, to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States,