

## 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.

**§ 12212. Officers: Air National Guard of the United States**

(a) Upon being federally recognized, an officer of the Air National Guard shall be appointed as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard. However, an officer of the Air Force Reserve who is federally recognized as an officer of the Air National Guard becomes an officer of the Air National Guard of the United States and ceases to be an officer of the Air Force Reserve. The acceptance of an appointment as a Reserve for service as a member of the Air National Guard of the United States by an officer of the Air National Guard does not vacate his office in the Air National Guard.

(b) When an officer of the Air National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Air National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Air National Guard of the United States is ordered to active duty, any officer of the Air National Guard who is not a Reserve of the Air Force may be appointed by the President as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 519, § 8351; renumbered § 12212, Pub. L. 103-337, div. A, title XVI, § 1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 104-106, div. A, title XV, § 1501(b)(13)(A), Feb. 10, 1996, 110 Stat. 496.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
8351(a) .....	50:1113 (less (a)).	July 9, 1952, ch. 608, §§ 703
8351(b) .....	50:1115(a) (last 39 words).	(less (a)), 704 (2d sentence), 705(a) (last 39 words), 713 (less (a)), 66 Stat. 502-504.
8351(c) .....	50:1114 (2d sentence).	
	50:1123 (less (a)).	

In subsection (a), the words “as a Reserve” are substituted for the words “as Reserve officers of the appropriate Armed Force of the United States” and “as a Reserve officer of the Armed Force of the United States concerned” in 50:1113(b). The words “federally recognized appointments” and “in the same grade and branch”, in 50:1113(b), are omitted as surplusage. The words “those officers who do not hold appointments as reserve officers of the appropriate Armed Force of the United States”, in 50:1113(b), are omitted as covered by the second sentence of the revised subsection.

In subsection (c), the words “active duty” are substituted for the words “active military service of the United States”. The words “and branch” are omitted as surplusage. The words “of the Air National Guard of the United States” are inserted for clarity.

## AMENDMENTS

1996—Pub. L. 104-106 inserted “the” after “National Guard of” in section catchline.

1994—Pub. L. 103-337 renumbered section 8351 of this title as this section.

## 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.

**§ 12213. Officers; Army Reserve: transfer from Army National Guard of the United States**

(a) Under such regulations as the Secretary of the Army may prescribe, and with the consent of the governor or other appropriate authority of the State concerned, an officer of the Army National Guard of the United States may be transferred in grade to the Army Reserve.

(b) Unless discharged from his appointment as a Reserve, an officer of the Army National Guard of the United States whose Federal recognition as a member of the Army National Guard is withdrawn becomes a member of the Army Reserve. An officer who so becomes a member of the Army Reserve ceases to be a member of the Army National Guard of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 194, § 3352; Pub. L. 85-861, § 1(80)(A), Sept. 2, 1958, 72 Stat. 1468; Pub. L. 86-559, § 1(7), June 30, 1960, 74 Stat. 265; Pub. L. 100-456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered § 12213 and amended Pub. L. 103-337, div. A, title XVI, §§ 1636(a), 1662(c)(3), 1675(b)(2), Oct. 5, 1994, 108 Stat. 2968, 2990, 3017; Pub. L. 104-106, div. A, title XV, § 1501(b)(13)(A), (14), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3352(a) .....	50:1116 (less last 15 words of 1st sentence, and less applicability to enlistments).	July 9, 1952, ch. 608, §§ 706 (less last 15 words of 1st sentence, and less applicability to enlistments), 707 (less applicability to enlistments), 66 Stat. 503.
3352(b) .....	50:1117 (less applicability to enlistments).	

In subsection (a), the words “at any time”, “of any person”, and “from the National Guard of the United States or from the Air National Guard of the United States” are omitted as surplusage. The words “highest regular or reserve grade ever held by him in the Army” are substituted for the words “highest permanent grade previously held in the Army or any component thereof”, since “permanent” grades are held only in a component and there are no “non-permanent” grades held in a component.

In subsection (b), the words “appointment as a Reserve” are substituted for the words “appointment or \* \* \* as a Reserve officer or”. The words “whose Federal recognition as a member \* \* \* is withdrawn” are substituted for the words “ceases to hold a status as a federally recognized member”.

## 1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3352(a) .....	50:1254.	Sept. 3, 1954, ch. 1257, § 322, 68 Stat. 1161.

## AMENDMENTS

1996—Pub. L. 104-106, § 1501(b)(13)(A), inserted “the” after “National Guard of” in section catchline.

Subsec. (a). Pub. L. 104-106, §1501(b)(14), substituted “section 12203” for “section 593” in last sentence.

1994—Pub. L. 103-337, §1662(c)(3), renumbered section 3352 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(b), struck out “or Territory, Puerto Rico, or the District of Columbia, whichever is” after “authority of the State”.

Pub. L. 103-337, §1636(a), struck out at end “Notwithstanding any other provision of this chapter or section 12203 of this title, an officer who is transferred under this section shall be advanced to the highest temporary, regular, or reserve grade ever held by him in the Army, unless the Secretary determines that it is not in the best interests of the service.”

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

1960—Subsec. (a). Pub. L. 86-559 authorized officers transferred under this section to be advanced to the highest temporary grade ever held in the Army.

1958—Subsec. (a). Pub. L. 85-861 substituted “Notwithstanding any other provision of this chapter or section 593 of this title, an officer who is transferred under this section shall be advanced to the highest regular or reserve grade ever held by him in the Army, unless the Secretary determines that it is not in the best interests of the service” for “Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if his service has been honorable”.

#### 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 AMENDMENTS

Pub. L. 104-106, div. A, title XV, §1501(f)(1), Feb. 10, 1996, 110 Stat. 501, provided that: “Section 1636 of the Reserve Officer Personnel Management Act [Pub. L. 103-337, amending this section and repealing sections 8356 and 8379 of this title] shall take effect on the date of the enactment of this Act [Feb. 10, 1996].”

Amendment by sections 1662(c)(3) and 1675(b)(2) of 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.

### § 12214. Officers; Air Force Reserve: transfer from Air National Guard of the United States

(a) Under such regulations as the Secretary of the Air Force may prescribe, and with the consent of the governor or other appropriate authority of the State concerned, an officer of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

(b) Unless discharged from his appointment as a Reserve, an officer of the Air National Guard of the United States whose Federal recognition as a member of the Air National Guard is withdrawn becomes a member of the Air Force Reserve. An officer who so becomes a member of the Air Force Reserve ceases to be a member of the Air National Guard of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 520, §8352; Pub. L. 87-651, title I, §126, Sept. 7, 1962, 76 Stat. 514; Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12214 and amended Pub. L. 103-337, div. A, title XVI, §§1662(c)(3), 1675(b)(2), Oct. 5, 1994, 108 Stat. 2990, 3017; Pub. L. 104-106, div. A, title XV, §1501(b)(13)(A), Feb. 10, 1996, 110 Stat. 496.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8352(a) .....	50:1116 (less last 15 words of 1st sentence, and less applicability to enlistments).	July 9, 1952, ch. 608, §§706 (less last 15 words of 1st sentence, and less applicability to enlistments), 707 (less applicability to enlistments), 66 Stat. 503.
8352(b) .....	50:1117 (less applicability to enlistments).	

In subsection (a), the words “at any time”, “of any person”, and “from the National Guard of the United States or from the Air National Guard of the United States” are omitted as surplusage. The words “highest regular or reserve grade ever held by him in the Air Force” are substituted for the words “highest permanent grade previously held in \* \* \* the Air Force or any component thereof”, since “permanent” grades are held only in a component and there are no “nonpermanent” grades held in a component.

In subsection (b), the words “appointment as a Reserve” are substituted for the words “appointment or \* \* \* as a Reserve officer or”. The words “whose Federal recognition as a member \* \* \* is withdrawn” are substituted for the words “ceases to hold a status as a federally recognized member”.

#### 1962 ACT

The change reflects the implied repeal of the second sentence of section 8352(a) by section 502(a) of the Reserve Officer Personnel Act of 1954 (68 Stat. 1172).

#### AMENDMENTS

1996—Pub. L. 104-106 inserted “the” after “National Guard of” in section catchline.

1994—Pub. L. 103-337, §1662(c)(3), renumbered section 8352 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(b)(2), struck out “or Territory, Puerto Rico, or the District of Columbia, whichever is” after “authority of the State”.

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

1962—Subsec. (a). Pub. L. 87-651 struck out sentence which provided that upon transfer, an officer is eligible for promotion to the highest regular or reserve grade ever held by him in the Air Force, if his service has been honorable.

#### 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 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.

### § 12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general

(a) The adjutant general or an assistant adjutant general of the Army National Guard of a State may, upon being extended Federal recognition, be appointed as a reserve officer of the Army as of the date on which he is so recognized.

(b) The adjutant general or an assistant adjutant general of the Air National Guard of a State may be appointed in the reserve commissioned grade in which Federal recognition in the Air National Guard is extended to him.

(Added Pub. L. 103-337, div. A, title XVI, §1662(c)(1), Oct. 5, 1994, 108 Stat. 2990.)