

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

APPLICATION OF SUBSECTION (a) TO SERVICE UNDER APPOINTMENT ACCEPTED BEFORE JUNE 26, 1956

Pub. L. 101-189, div. A, title VI, §652(a)(1)(B), Nov. 29, 1989, 103 Stat. 1461, provided that: "The limitation in section 971(a) of title 10, United States Code, shall not apply with respect to a period of service referred to in that section while also serving under an appointment as a cadet or midshipman accepted before June 26, 1956."

§ 972. Members: effect of time lost

(a) ENLISTED MEMBERS REQUIRED TO MAKE UP TIME LOST.—An enlisted member of an armed force who—

- (1) deserts;
- (2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;
- (3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or
- (4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term for which he was enlisted or inducted.

(b) OFFICERS NOT ALLOWED SERVICE CREDIT FOR TIME LOST.—In the case of an officer of an armed force who after February 10, 1996—

- (1) deserts;
- (2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;
- (3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or
- (4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

the period of such desertion, absence, confinement, or inability to perform duties may not be counted in computing, for any purpose other than basic pay under section 205 of title 37, the officer's length of service.

(c) WAIVER OF RECOUPMENT OF TIME LOST FOR CONFINEMENT.—The Secretary concerned shall waive liability for a period of confinement in connection with a trial under subsection (a)(3), or exclusion of a period of confinement in connection with a trial under subsection (b)(3), in a case upon the occurrence of any of the following events:

- (1) For each charge—
  - (A) the charge is dismissed before or during trial in a final disposition of the charge; or
  - (B) the trial results in an acquittal of the charge.
- (2) For each charge resulting in a conviction in such trial—
  - (A) the conviction is set aside in a final disposition of such charge, other than in a grant of clemency; or
  - (B) a judgment of acquittal or a dismissal is entered upon a reversal of the conviction on appeal.

(Added Pub. L. 85-861, §1(20), Sept. 2, 1958, 72 Stat. 1443; amended Pub. L. 104-106, div. A, title V, §561(a)-(c)(1), Feb. 10, 1996, 110 Stat. 321, 322; Pub. L. 105-85, div. A, title X, §1073(a)(14), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108-375, div. A, title V, §572, Oct. 28, 2004, 118 Stat. 1921.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
972 .....	10 App.:629a. 34 App.:183b.	July 24, 1956, ch. 692, §1, 70 Stat. 631.

AMENDMENTS

- 2004—Subsec. (c). Pub. L. 108-375 added subsec. (c).
- 1997—Subsec. (b). Pub. L. 105-85 substituted "February 10, 1996" for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996" in introductory provisions.
- 1996—Pub. L. 104-106, §561(c)(1), substituted "Members: effect of time lost" for "Enlisted members: required to make up time lost" as section catchline.
- Pub. L. 104-106, §561(a), designated existing provisions as subsec. (a), inserted heading, added par. (3), redesignated par. (5) as (4), struck out former pars. (3) and (4), and added subsec. (b). Prior to amendment, subsec. (a)(3) and (4) read as follows:
  - "(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;
  - "(4) is confined for more than one day under a sentence that has become final; or"

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title V, §561(e), Feb. 10, 1996, 110 Stat. 323, provided that: "The amendments made by this section [enacting section 6328 of this title and amending this section and sections 1405, 3925, 3926, 8925, and 8926 of this title] shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any period of time covered by section 972 of title 10, United States Code, that occurs after that date."

§ 973. Duties: officers on active duty; performance of civil functions restricted

(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b)(1) This subsection applies—  
(A) to a regular officer of an armed force on the active-duty list (and a regular officer of the Coast Guard on the active duty promotion list);

(B) to a retired regular officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days; and