

1997—Pub. L. 105-85, div. A, title III, §371(a)(1), (c)(1), Nov. 18, 1997, 111 Stat. 1705, substituted “COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES” for “UTILITIES AND SERVICES” as chapter heading and struck out items 2481 “Utilities and services: sale; expansion and extension of systems and facilities”, 2483 “Sale of electricity from alternate energy and cogeneration production facilities”, and 2490 “Utility services: furnishing for certain buildings”.

1996—Pub. L. 104-201, div. A, title III, §§341(a)(2), 343(a)(2), Sept. 23, 1996, 110 Stat. 2489, 2490, added items 2482a and 2489a.

Pub. L. 104-106, div. A, title III, §§331(b), 336(a)(2), Feb. 10, 1996, 110 Stat. 260, 264, substituted “Commissary stores: operation” for “Commissary stores: private operation” in item 2482 and added item 2490a.

1993—Pub. L. 103-160, div. A, title XI, §1182(a)(8)(B), Nov. 30, 1993, 107 Stat. 1771, struck out item 2490a “Non-appropriated fund instrumentalities: financial management and use of nonappropriated funds”.

1992—Pub. L. 102-484, div. A, title III, §§362(b), 364(b)(1), Oct. 23, 1992, 106 Stat. 2380, 2382, substituted “limitations” for “limitation” in item 2487 and added item 2490a.

1990—Pub. L. 101-510, div. A, title III, §324(b)(2), Nov. 5, 1990, 104 Stat. 1531, amended item 2485 generally, substituting “Donation of unusable food: commissary stores and other activities” for “Commissary stores: donation of unmarketable food”.

1988—Pub. L. 100-370, §1(j)(2), July 19, 1988, 102 Stat. 848, added item 2490.

1987—Pub. L. 100-180, div. A, title III, §§311(a)(2), 313(a)(3), Dec. 4, 1987, 101 Stat. 1073, 1074, inserted “and pricing” in item 2486 and added item 2489.

1986—Pub. L. 99-661, div. A, title III, §313(c), Nov. 14, 1986, 100 Stat. 3853, added items 2486, 2487, and 2488.

1985—Pub. L. 99-145, title XIV, §1460(b), Nov. 8, 1985, 99 Stat. 765, added item 2485.

1984—Pub. L. 98-525, title XIV, §1401(i)(2), Oct. 19, 1984, 98 Stat. 2620, added item 2484.

Pub. L. 98-407, title VIII, §810(b), Aug. 28, 1984, 98 Stat. 1523, added item 2483.

SUBCHAPTER I—DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

Sec.

- 2481. Defense commissary and exchange systems: existence and purpose.
- 2482. Commissary stores: criteria for establishment or closure; store size.
- 2483. Commissary stores: use of appropriated funds to cover operating expenses.
- 2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.
- 2485. Commissary stores: operation.

AMENDMENTS

2006—Pub. L. 109-364, div. A, title X, §1071(a)(18), Oct. 17, 2006, 120 Stat. 2399, inserted period at end of item 2481.

2004—Pub. L. 108-375, div. A, title VI, §651(a)(3), Oct. 28, 2004, 118 Stat. 1964, added subchapter heading and items 2481 to 2485.

§ 2481. Defense commissary and exchange systems: existence and purpose

(a) SEPARATE SYSTEMS.—The Secretary of Defense shall operate, in the manner provided by this chapter and other provisions of law, a world-wide system of commissary stores and a separate world-wide system of exchange stores. The stores of each system may sell, at reduced prices, food and other merchandise to members of the uniformed services on active duty, members of the uniformed services entitled to retired pay, dependents of such members, and persons

authorized to use the system under chapter 54 of this title. Any reference in this chapter to “the exchange system” shall be treated as referring to each separate administrative entity within the Department of Defense through which the Secretary has implemented the requirement under this subsection for a world-wide system of exchange stores.

(b) PURPOSE OF SYSTEMS.—The defense commissary system and the exchange system are intended to enhance the quality of life of members of the uniformed services, retired members, and dependents of such members, and to support military readiness, recruitment, and retention.

(c) OVERSIGHT.—(1) The Secretary of Defense shall designate a senior official of the Department of Defense to oversee the operation of both the defense commissary system and the exchange system.

(2) The Secretary of Defense shall establish an executive governing body to provide advice to the senior official designated under paragraph (1) regarding the operation of the defense commissary and exchange systems and to ensure the complementary operation of the systems.

(3)(A) The Secretary of Defense shall develop and implement a comprehensive strategy to optimize management practices across the defense commissary system and the exchange system that reduce reliance of those systems on appropriated funding without reducing benefits to the patrons of those systems or the revenue generated by nonappropriated fund entities or instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(B) The Secretary shall ensure that savings generated due to such optimization practices are shared by the defense commissary system and the exchange system through contracts or agreements that appropriately reflect the participation of the systems in the development and implementation of such practices.

(C) If the Secretary determines that the reduced reliance on appropriated funding pursuant to subparagraph (A) is insufficient to maintain the benefits to the patrons of the defense commissary system, and if the Secretary converts the defense commissary system to a nonappropriated fund entity or instrumentality pursuant to paragraph (1) of section 2484(j) of this title, the Secretary shall transfer appropriated funds pursuant to paragraph (2) of such section to ensure the maintenance of such benefits.

(4) On not less than a quarterly basis, the Secretary shall provide to the congressional defense committees a briefing on the defense commissary system, including—

(A) an assessment of the savings the system provides patrons;

(B) the status of implementing section 2484(i) of this title;

(C) the status of implementing section 2484(j) of this title, including whether the system requires any appropriated funds pursuant to paragraph (2) of such section;

(D) the status of carrying out a program for such system to sell private label merchandise; and

(E) any other matters the Secretary considers appropriate.

(d) **REDUCED PRICES DEFINED.**—In this section, the term “reduced prices” means prices for food and other merchandise determined using the price setting process specified in section 2484 of this title.

(Added Pub. L. 108–375, div. A, title VI, § 651(a)(3), Oct. 28, 2004, 118 Stat. 1965; amended Pub. L. 114–328, div. A, title VI, § 661(a), (f), Dec. 23, 2016, 130 Stat. 2169, 2172.)

PRIOR PROVISIONS

A prior section 2481, added Pub. L. 108–136, div. A, title VI, § 652(a), Nov. 24, 2003, 117 Stat. 1522, related to the existence of defense commissary system and exchange stores system, prior to repeal by Pub. L. 108–375, div. A, title VI, § 651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

Another prior section 2481 was renumbered section 2686 of this title.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–328, § 661(f), inserted at end “ Any reference in this chapter to ‘the exchange system’ shall be treated as referring to each separate administrative entity within the Department of Defense through which the Secretary has implemented the requirement under this subsection for a world-wide system of exchange stores.”

Subsec. (c)(3), (4). Pub. L. 114–328, § 661(a), added pars. (3) and (4).

PLAN TO OBTAIN BUDGET-NEUTRALITY FOR THE DEFENSE COMMISSARY SYSTEM AND THE MILITARY EXCHANGE SYSTEM

Pub. L. 114–92, div. A, title VI, § 651, Nov. 25, 2015, 129 Stat. 854, provided that:

“(a) **IN GENERAL.**—Not later than March 1, 2016, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a comprehensive plan to achieve by October 1, 2018, budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c). In preparing the report, the Secretary shall consider the report required by section 634 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3406) and any other previous reports, studies, and surveys of matters appropriate to the report.

“(b) **REPORT ELEMENTS.**—The report required by subsection (a) shall include the following:

“(1) A description of any modifications to the commissary and exchange benefit systems the Secretary considers appropriate to obtain budget-neutrality in the delivery of commissary and exchange benefits, including the following:

“(A) The establishment of common business processes, practices, and systems to exploit synergies between the operations of defense commissaries and exchanges and to optimize the operations of the resale system and the benefits provided by the commissaries and exchanges.

“(B) The privatization of the defense commissary system and the military exchange system, in whole or in part.

“(C) Engagement of major commercial grocery retailers or other private sector entities to determine their willingness to provide eligible beneficiaries with discount savings on grocery products and certain household goods.

“(D) The closure of commissaries in locations in close proximity to other commissaries or in locations where commercial alternatives, through major grocery retailers, may be available.

“(2) An analysis of different pricing constructs to improve or enhance the delivery of commissary and exchange benefits.

“(3) A description of the impact of any modifications described pursuant to paragraph (1) on Morale,

Welfare and Recreation (MWR) quality-of-life programs.

“(4) Such recommendations for legislative action as the Secretary considers appropriate to achieve by October 1, 2018, budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c).

“(c) **BENCHMARKS.**—The report required by subsection (a) shall ensure—

“(1) the maintenance of high levels of customer satisfaction in the delivery of commissary and exchange benefits;

“(2) the provision of high quality products; and

“(3) the sustainment of discount savings to eligible beneficiaries.

“(d) **COMPTROLLER GENERAL ASSESSMENT OF PLAN.**—Not later than 120 days after the submittal of the report required by subsection (a), the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth an assessment by the Comptroller General of the plan to achieve budget-neutrality in the delivery of commissary and exchange benefits while meeting the benchmarks set forth in subsection (c) as set forth in the report required by subsection (a).

“(e) **PILOT PROGRAMS.**—

“(1) **PROGRAMS AUTHORIZED.**—After the reports required by subsections (a) and (d) have been submitted as described in such subsections, the Secretary may, notwithstanding any requirement in chapter 147 of title 10, United States Code, conduct one or more pilot programs to evaluate the feasibility and advisability of processes and methods for achieving budget-neutrality in the delivery of commissary and exchange benefits and other applicable benchmarks in accordance with this section. The Secretary may authorize any commissary or exchange, or private sector entity, participating in any such pilot program to establish appropriate prices in response to market conditions and customer demand, provided that the level of savings required by paragraph (3) is maintained.

“(2) **BENCHMARKS.**—If the Secretary conducts a pilot program under this subsection, the Secretary shall establish specific, measurable benchmarks for measuring success in the provision of high quality grocery goods and products, discount savings to patrons, and high levels of customer satisfaction while achieving budget-neutrality in the delivery of commissary and exchange benefits under the pilot program.

“(3) **REQUIRED SAVINGS TO PATRONS.**—The Secretary shall ensure that the level of savings to commissary and exchange patrons under any pilot program under this subsection is not less than the level of savings to such patrons before the implementation of such pilot program, as follows:

“(A) Before commencing a pilot program the Secretary shall establish a baseline of savings to patrons achieved for each commissary or exchange to participate in such pilot program by comparing prices charged by such commissary or exchange for a representative market basket of goods to prices charged by local competitors for the same market basket of goods.

“(B) After commencement of such pilot program, the Secretary shall ensure that each commissary or exchange, or private sector entity, participating in such pilot program conducts market-basket price comparisons not less than once a month and adjusts pricing as necessary to ensure that pricing achieves savings to patrons under such pilot program that are reasonably consistent with the baseline savings for the commissary or exchange established pursuant to subparagraph (A).

“(4) **DURATION OF AUTHORITY.**—The authority of the Secretary to carry out a pilot program under this subsection shall expire on the date that is five years after the date of the enactment of this Act [Nov. 25, 2015]. However, if a pilot program achieves budget-

neutrality in the delivery of commissary and exchange benefits and other applicable benchmarks, as measured using the benchmarks required by paragraph (2), the Secretary may continue the pilot program for an additional period of up to five years.

“(5) REPORTS.—

“(A) INITIAL REPORTS.—If the Secretary conducts a pilot program under this subsection, the Secretary shall, not later than 30 days before commencing the pilot program, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program, including the following:

“(i) A description of the pilot program.

“(ii) The provisions, if any, of chapter 147 of title 10, United States Code, that will be waived in the conduct of the pilot program.

“(B) FINAL REPORTS.—Not later than 90 days after the date of the completion of any pilot program under this subsection or the date of the commencement of an extension of a pilot program under paragraph (4), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program, including the following:

“(i) A description and assessment of the pilot program.

“(ii) Such recommendations for administrative or legislative action as the Secretary considers appropriate in light of the pilot program.”

§ 2482. Commissary stores: criteria for establishment or closure; store size

(a) PRIMARY CONSIDERATION FOR ESTABLISHMENT.—The needs of members of the armed forces on active duty and the needs of dependents of such members shall be the primary consideration whenever the Secretary of Defense—

(1) assesses the need to establish a commissary store; and

(2) selects the actual location for the store.

(b) STORE SIZE.—In determining the size of a commissary store, the Secretary of Defense shall take into consideration the number of all authorized patrons of the defense commissary system who are likely to use the store.

(c) CLOSURE CONSIDERATIONS.—(1) Whenever assessing whether to close a commissary store, the effect of the closure on the quality of life of members and dependents referred to in subsection (a) who use the store and on the welfare and security of the military community in which the commissary is located shall be a primary consideration.

(2) Whenever assessing whether to close a commissary store, the Secretary of Defense shall also consider the effect of the closure on the quality of life of members of the reserve components of the armed forces.

(d) CONGRESSIONAL NOTIFICATION.—(1) The closure of a commissary store in the United States shall not take effect until the end of the 90-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of life for military patrons and the welfare and security of the military community in which the commissary is located.

(2) Paragraph (1) shall not apply in the case of the closure of a commissary store as part of the closure of a military installation under a base closure law.

(Added Pub. L. 108-375, div. A, title VI, § 651(a)(3), Oct. 28, 2004, 118 Stat. 1965; amended Pub. L. 112-81, div. A, title X, § 1064(6), Dec. 31, 2011, 125 Stat. 1587.)

PRIOR PROVISIONS

A prior section 2482 was renumbered section 2485 of this title.

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. Such appropriated amounts may also be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title and the variable pricing program implemented pursuant to section 2484(i) of this title.

(Added Pub. L. 98-525, title XIV, § 1401(i)(1), Oct. 19, 1984, 98 Stat. 2619, § 2484; amended Pub. L.