

Sec.
2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.
2495a. Overseas package stores: treatment of United States wines.
2495b. Sale or rental of sexually explicit material prohibited.

AMENDMENTS

2009—Pub. L. 111-84, div. A, title VI, § 651(b), Oct. 28, 2009, 123 Stat. 2369, added item 2492a.

2004—Pub. L. 108-375, div. A, title VI, § 651(c)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2491 to 2495b.

§ 2491. Uniform funding and management of morale, welfare, and recreation programs

(a) **AUTHORITY FOR UNIFORM FUNDING AND MANAGEMENT.**—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) **CONDITIONS ON AVAILABILITY.**—Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

(c) **CONVERSION OF EMPLOYMENT POSITIONS.**—(1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position because of the failure to provide such consent.

(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.

(4) In this subsection, the term “an employee of a nonappropriated fund instrumentality” means an employee described in section 2105(c) of title 5.

(Added Pub. L. 107-314, div. A, title III, § 323(a), Dec. 2, 2002, 116 Stat. 2510, § 2494; renumbered

§ 2491, Pub. L. 108-375, div. A, title VI, § 651(c)(2), Oct. 28, 2004, 118 Stat. 1972.)

PRIOR PROVISIONS

A prior section 2491 was renumbered section 2500 of this title.

AMENDMENTS

2004—Pub. L. 108-375 renumbered section 2494 of this title as this section.

§ 2491a. Department of Defense golf courses: limitation on use of appropriated funds

(a) **LIMITATION.**—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to equip, operate, or maintain a golf course at a facility or installation of the Department of Defense.

(b) **EXCEPTIONS.**—(1) Subsection (a) does not apply to a golf course at a facility or installation outside the United States or at a facility or installation inside the United States at a location designated by the Secretary of Defense as a remote and isolated location.

(2) The Secretary of Defense shall prescribe regulations governing the use of appropriated funds under this subsection.

(Added Pub. L. 103-160, div. A, title III, § 312(a), Nov. 30, 1993, 107 Stat. 1618, § 2246; renumbered § 2491a, Pub. L. 108-375, div. A, title VI, § 651(d), Oct. 28, 2004, 118 Stat. 1972.)

AMENDMENTS

2004—Pub. L. 108-375 renumbered section 2246 of this title as this section.

§ 2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation

(a) **LIMITATION.**—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to operate the Armed Forces Recreation Center, Europe.

(b) **EXCEPTION.**—Subsection (a) does not apply to the use of funds for the payment of utilities, the maintenance, repair, or renovation of real property, and the transportation of products made in the United States.

(Added Pub. L. 103-337, div. A, title III, § 372(a), Oct. 5, 1994, 108 Stat. 2735, § 2247; amended Pub. L. 105-85, div. A, title III, § 375, Nov. 18, 1997, 111 Stat. 1708; renumbered § 2491b, Pub. L. 108-375, div. A, title VI, § 651(d), Oct. 28, 2004, 118 Stat. 1972.)

AMENDMENTS

2004—Pub. L. 108-375 renumbered section 2247 of this title as this section.

1997—Subsec. (b). Pub. L. 105-85 substituted “the maintenance, repair, or renovation of real property, and the transportation” for “real property maintenance, and transportation”.

§ 2491c. Retention of morale, welfare, and recreation funds by military installations: limitation

Amounts may not be retained in a nonappropriated morale, welfare, and recreation account of a military installation of an armed force in excess of the amount necessary to meet

cash requirements of that installation. Amounts in excess of that amount shall be transferred to a single nonappropriated morale, welfare, and recreation account for that armed force. This section does not apply to the Coast Guard.

(Added Pub. L. 103-337, div. A, title III, §373(a), Oct. 5, 1994, 108 Stat. 2736, §2219; amended Pub. L. 104-106, div. A, title III, §341, Feb. 10, 1996, 110 Stat. 265; renumbered §2491c, Pub. L. 108-375, div. A, title VI, §651(d), Oct. 28, 2004, 118 Stat. 1972.)

AMENDMENTS

2004—Pub. L. 108-375 renumbered section 2219 of this title as this section.

1996—Pub. L. 104-106, in first sentence, substituted “an armed force” for “a military department”, in second sentence, substituted “a single, nonappropriated morale, welfare, and recreation account for that armed force” for “a single, department-wide nonappropriated morale, welfare, and recreation account of the military department”, and inserted after second sentence “This section does not apply to the Coast Guard.”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities 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.

§ 2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services

An agency or instrumentality of the Department of Defense that supports the operation of the exchange system, or the operation of a morale, welfare, and recreation system, of the Department of Defense may enter into a contract or other agreement with another element of the Department of Defense or with another Federal department, agency, or instrumentality—

- (1) to provide or obtain goods and services beneficial to the efficient management and operation of the exchange system or that morale, welfare, and recreation system; or
- (2) to provide or obtain food services beneficial to the efficient management and operation of the dining facilities on military installations offering food services to members of the armed forces.

(Added Pub. L. 104-201, div. A, title III, §341(a)(1), Sept. 23, 1996, 110 Stat. 2488, §2482a; renumbered §2492, Pub. L. 108-375, div. A, title VI, §651(c)(3), Oct. 28, 2004, 118 Stat. 1972; amended Pub. L. 113-291, div. A, title VI, §632, Dec. 19, 2014, 128 Stat. 3405.)

PRIOR PROVISIONS

A prior section 2492 was renumbered section 2489 of this title.

AMENDMENTS

2014—Pub. L. 113-291 substituted “Federal department, agency, or instrumentality—” for “Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the exchange system or that

morale, welfare, and recreation system.” and added pars. (1) and (2).

2004—Pub. L. 108-375 renumbered section 2482a of this title as this section.

§ 2492a. Limitation on Department of Defense entities competing with private sector in offering personal information services

(a) LIMITATION.—(1) Notwithstanding section 2492 of this title, the Secretary of Defense may not authorize a Department of Defense entity to offer or provide personal information services directly to users using Department resources, personnel, or equipment, or compete for contracts to provide such personal information services directly to users, if users will be charged a fee for the personal information services to recover the cost incurred to provide the services or to earn a profit.

(2) The limitation in paragraph (1) shall not be construed to prohibit or preclude the use of Department resources, personnel, or equipment to administer or facilitate personal information services contracts with private contractors.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply if the Secretary of Defense determines that—

- (1) a private sector vendor is not available to provide the personal information services at specific locations;
- (2) the interests of the user population would be best served by allowing the Government to provide such services; or
- (3) circumstances (as specified by the Secretary for purposes of this section) are such that the provision of such services by a Department entity is in the best interest of the Government or military users in general.

(c) PERSONAL INFORMATION SERVICES DEFINED.—In this section, the term “personal information services” means the provision of Internet, telephone, or television services to consumers.

(Added Pub. L. 111-84, div. A, title VI, §651(a), Oct. 28, 2009, 123 Stat. 2368.)

SAVINGS PROVISION

Pub. L. 111-84, div. A, title VI, §651(c), Oct. 28, 2009, 123 Stat. 2369, provided that: “Section 2492a of title 10, United States Code, as added by subsection (a), does not affect the validity or terms of any contract for the provision of personal information services entered into before the date of the enactment of this Act [Oct. 28, 2009].”

§ 2493. Fisher Houses: administration as nonappropriated fund instrumentality

(a) FISHER HOUSES AND SUITES DEFINED.—In this section:

- (1) The term “Fisher House” means a housing facility that—
 - (A) is located in proximity to a health care facility of the Army, the Air Force, or the Navy;
 - (B) is available for residential use on a temporary basis by authorized Fisher House residents; and
 - (C) is constructed and donated by—
 - (i) the Zachary and Elizabeth M. Fisher Armed Services Foundation; or
 - (ii) another source, if the Secretary of the military department concerned des-