

or Regular Marine Corps during war or national emergency.

Section 5539, acts Aug. 10, 1956, ch. 1041, 70A Stat. 320; Sept. 2, 1958, Pub. L. 85-861, §1(116), 72 Stat. 1493; Sept. 7, 1962, Pub. L. 87-649, §14c(27), 76 Stat. 501, provided for voluntary extension or re-extension of enlistments in Regular Navy or Regular Marine Corps.

§ 5540. Expiration: rights of member

(a) The senior officer present afloat in foreign waters shall send to the United States by Government or other transportation as soon as possible each enlisted member of the naval service who is serving on a naval vessel, whose term of enlistment has expired, and who desires to return to the United States. However, when the senior officer present afloat considers it essential to the public interest, he may retain such a member on active duty until the vessel returns to the United States.

(b) Each member retained under this section—

(1) shall be discharged not later than 30 days after his arrival in the United States; and

(2) except in time of war is entitled to an increase in basic pay of 25 percent.

(c) The substance of this section shall be included in the enlistment contract of each person enlisting in the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 320.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5540	34 U.S.C. 201.	R.S. 1422; Mar. 3, 1875, ch. 155, 18 Stat. 484.
	34 U.S.C. 201a.	Aug. 18, 1941, ch. 364, § 4, 55 Stat. 630.
	34 U.S.C. 201b.	Dec. 13, 1941, ch. 570, § 2, 55 Stat. 799.

In subsection (a) the words “the senior officer present afloat” are substituted for the words “the commanding officer of any fleet, squadron, or vessel acting singly” to modernize the terminology. At the time of the enactment of the Revised Statutes the word “squadron” meant an organization of any number of vessels more than one, so that all cases were covered by R.S. 1422. The concept of “senior officer present afloat”, today, covers as nearly as possible the current equivalent of the concept in the original section. The words “in foreign waters” are inserted to conform to the interpretation of the Supreme Court in *Wilkes v. Dinsman*, 7 How. 89 (1849). The words “on service” are omitted, as they have no current ascertainable meaning. The words “by Government or other transportation” are substituted for the words “in some public or other vessel”, since this provision is interpreted as directing transportation by either ship or aircraft. The words “to the United States” are substituted for the words “to an Atlantic or to a Pacific port of the United States, as their enlistment may have occurred on either the Atlantic or Pacific coast, of the United States” because aircraft now land at inland airports as well as coastal airports and the duty to return an enlisted member to the United States under this provision is considered complete upon the member’s arrival in the United States. The extensive transportation system in the United States presently obviates the necessity of returning a member to a particular area. Furthermore, under 37 U.S.C. 253, the Government bears the cost of transporting the discharged member to his home or to the place from which he was called to active duty. The words “enlisted member of the naval service” are substituted for the words “all petty officers and persons of inferior ratings” in accordance with present terminology. Members of the Marine Corps are included because of inter-

pretations of the Comptroller General, in construing the language of the statute. (14 Comp. Gen. 807, 808, May 1, 1935.) The reference to persons enlisted without the limits of the United States is omitted as unnecessary, since return to the United States is optional with the member and the basic rule applies irrespective of place of enlistment. The language requiring that persons who are detained or sent home be subject to the laws and regulations for the Government of the Navy is omitted as unnecessary in view of the Uniform Code of Military Justice. The provision referring to reentry to serve until the vessel returns to the United States is omitted because no law authorizes entry or reentry into the service for this restricted purpose.

In subsection (b) the words “an increase in basic pay of 25 percent” are substituted for the words “an addition of one-fourth of their former pay” in conformity with the Career Compensation Act of 1949. 34 U.S.C. 201b permanently suspended the detention pay increase in time of war and this effect is expressed in subsection (b)(2) by the words “except in time of war”. 34 U.S.C. 201a, declaring that the pay addition authorized by this section does not apply to enlistments extended under other provisions of law, is omitted as unnecessary, since the increased pay provision is specifically limited to detentions under this section.

In subsection (c) the term “enlistment contract” is substituted for the term “shipping-articles” to conform to present terminology.

CHAPTER 539—ORIGINAL APPOINTMENTS

- Sec.
- [5571 to 5581. Repealed.]
- 5582. Regular Navy: transfers, line and staff corps.
- [5583, 5584. Repealed.]
- 5585. Regular Marine Corps: order of filling vacancies in grade of second lieutenant.
- [5586. Repealed.]
- 5587. Regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty.
- 5587a. Regular Marine Corps: judge advocates.
- [5588. Repealed.]
- 5589. Regular Navy and Regular Marine Corps: officers designated for limited duty.
- [5590 to 5595. Repealed.]
- 5596. Navy and Marine Corps: temporary appointments of officers designated for limited duty.
- [5597 to 5601. Repealed.]

AMENDMENTS

- 1994—Pub. L. 103-337, div. A, title XVI, §1673(b)(2), Oct. 5, 1994, 108 Stat. 3016, struck out item 5600 “Naval Reserve and Marine Corps Reserve: service credit upon original appointment”.
- 1991—Pub. L. 102-190, div. A, title XI, §1113(d)(2)(B), Dec. 5, 1991, 105 Stat. 1502, struck out “warrant officers and” before “officers designated” in item 5596.
- 1981—Pub. L. 97-22, §10(b)(7), July 10, 1981, 95 Stat. 137, struck out item 5573a “Regular Navy and Regular Marine Corps: from reserve and temporary officers” and in item 5596 substituted “Navy and Marine Corps: temporary appointments of warrant officers and officers designated for limited duty” for “Navy and Marine Corps: temporary appointments”.
- 1980—Pub. L. 96-513, title V, §503(28), Dec. 12, 1980, 94 Stat. 2913, struck out items 5571 “Regular Navy and Regular Marine Corps: citizenship of officers”, 5572 “Regular Navy and Regular Marine Corps: appointing power” 5573 “Regular Navy and Regular Marine Corps: from graduates of the Naval Academy”, 5574 “Regular Navy: Medical Corps”, 5575 “Regular Navy: Supply Corps”, 5576 “Regular Navy: Chaplain Corps”, 5577 “Regular Navy: Civil Engineer Corps”, 5578 “Regular Navy: Dental Corps”, 5578a “Regular Navy: Judge Advocate General’s Corps”, 5579 “Regular Navy: Medical Service Corps”, 5580 “Regular Navy: Nurse Corps”, 5581 “Naval Reserve: Medical Corps, Dental Corps, Medical

Service Corps: women”, 5583 “Regular Marine Corps: from non-commissioned officers”, 5584 “Regular Marine Corps: from former officers”, 5586 “Regular Navy and Regular Marine Corps: from warrant officers and enlisted members”, 5590 “Regular Navy and Regular Marine Corps: women”, 5591 “Regular Navy: Supply Corps: maximum number of ensigns appointed annually”, 5592 “Regular Navy: Civil Engineer Corps: maximum number of ensigns appointed annually”, 5593 “Regular Navy: Medical Service Corps: maximum number of ensigns appointed annually”, 5594 “Regular Navy: Nurse Corps: maximum number of ensigns appointed annually”, 5595 “Regular Marine Corps: restriction on appointments of former midshipmen and cadets”, 5597 “Navy and Marine Corps: temporary appointments in time of war or national emergency”, 5598 “Naval Reserve and Marine Corps Reserve: temporary appointments in time of war or national emergency”, 5599 “Medical Corps: acting appointments for temporary service”, and 5601 “Naval Reserve: Nurse Corps: men”.

1967—Pub. L. 90-179, §5(5), Dec. 8, 1967, 81 Stat. 548, added items 5578a and 5587a.

1961—Pub. L. 87-123, §5(9), Aug. 3, 1961, 75 Stat. 265, struck out item 5588 “Regular Marine Corps: officers designated for supply duty”.

1958—Pub. L. 85-861, §1(118)(B), (121)(B), Sept. 2, 1958, 72 Stat. 1493, 1495, added items 5573a, 5600, and 5601.

[[§ 5571, 5572. Repealed. Pub. L. 96-513, title III, § 321, Dec. 12, 1980, 94 Stat. 2892]

Section 5571, act Aug. 10, 1956, ch. 1041, 70A Stat. 321, prescribed a citizenship requirement for appointment as an officer in the Regular Navy or the Regular Marine Corps. See section 532 of this title.

Section 5572, acts Aug. 10, 1956, ch. 1041, 70A Stat. 321; Sept. 2, 1958, Pub. L. 85-861, §1(117), 72 Stat. 1493, required that each appointment to the active list of the Navy or to the active list of the Marine Corps be made by the President, by and with the advice and consent of the Senate. See section 531 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

[[§ 5573. Repealed. Pub. L. 96-513, title III, § 322, Dec. 12, 1980, 94 Stat. 2892]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 321, authorized appointment of graduates of the Naval Academy to the Regular Navy and the Regular Marine Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

[[§ 5573a to 5580. Repealed. Pub. L. 96-513, title III, § 321, Dec. 12, 1980, 94 Stat. 2892]

Section 5573a, added Pub. L. 85-861, §1(118)(A), Sept. 2, 1958, 72 Stat. 1493, authorized appointments to the active list of the Navy in permanent grades not above lieutenant and to the active list of the Marine Corps in permanent grades not above captain from officers of the Naval Reserve or the Marine Corps Reserve and from officers of the Regular Navy or the Regular Marine Corps not holding permanent commissioned appointments therein.

Section 5574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 321; Sept. 2, 1958, Pub. L. 85-861, §1(119), 72 Stat. 1493, prescribed requirements for original appointments to the active list of the Navy in the Medical Corps. See section 532 of this title.

Section 5575, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Supply Corps. See section 532 of this title.

Section 5576, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Chaplain Corps. See section 532 of this title.

Section 5577, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Civil Engineer Corps. See section 532 of this title.

Section 5578, acts Aug. 10, 1956, ch. 1041, 70A Stat. 322; Sept. 2, 1958, Pub. L. 85-861, §1(120), 72 Stat. 1494, prescribed requirements for original appointments to the active list of the Navy in the Dental Corps. See section 532 of this title.

Section 5578a, added Pub. L. 90-179, §5(1), Dec. 8, 1967, 81 Stat. 547, prescribed requirements for original appointments to the active list of the Navy in the Judge Advocate General's Corps. See section 532 of this title.

Section 5579, act Aug. 10, 1956, ch. 1041, 70A Stat. 323, prescribed requirements for original appointments to the active list of the Navy in the Medical Service Corps. See section 532 of this title.

Section 5580, acts Aug. 10, 1956, ch. 1041, 70A Stat. 323; Sept. 30, 1966, Pub. L. 89-609, §1(7)-(9), 80 Stat. 853, prescribed requirements for original appointments to the active list of the Navy in the Nurse Corps. See section 532 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

[[§ 5581. Repealed. Pub. L. 96-513, title III, § 373(c), Dec. 12, 1980, 94 Stat. 2903]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 323; Dec. 8, 1967, Pub. L. 90-179, §12, 81 Stat. 549, related to the appointment of women in the Naval Reserve to the Medical Corps, the Dental Corps, and the Medical Services Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

§ 5582. Regular Navy: transfers, line and staff corps

(a) A regular officer of the Navy in a staff corps in a grade not above lieutenant commander may be appointed in the line of the Navy to the same grade.

(b) A regular officer in the line of the Navy in a grade not above lieutenant commander may be appointed to the same grade in a staff corps under regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 324; Pub. L. 96-513, title III, §373(d), Dec. 12, 1980, 94 Stat. 2903.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5582(a)	34 U.S.C. 14 (less statement of appointing authority).	July 22, 1935, ch. 402, §7 (less statement of appointing authority), 49 Stat. 490.
5582(b)	34 U.S.C. 13 (less statement of appointing authority).	July 22, 1935, ch. 402, §6 (less statement of appointing authority), 49 Stat. 490.

The words “active list” are inserted so that this section will apply only to officers of the Regular Navy holding permanent appointments in grades above commissioned warrant officer, as this was the intent of the source statute. The words “same grade” are sub-