

mander, and colonel or Navy captain who may be on active duty to, respectively: Army, to 2,261, 1,121, and 345 from 1,948, 967, and 338; Air Force, to 471, 293, and 172 from 408, 303, and 171; Marine Corps, to 100, 50, and 25 from 95, 48, and 23. Figures for the Navy remained unchanged.

1983—Subsec. (a). Pub. L. 98-94 increased fiscal year limitation on number of reserve officers in grade major or lieutenant commander; lieutenant colonel or commander; and colonel or Navy captain who may be on active duty to, respectively: Army, to 1,948, 967, and 338 from 1,351, 671, and 234; Navy, to 823, 520, and 177 from 823, 425, and 177; Air Force, to 408, 303, and 171 from 281, 267, and 170; Marine Corps, to 95, 48, and 23 from 95, 40, and 21.

1982—Subsec. (a). Pub. L. 97-252 increased numbers in columns headed "Army", "Air Force", and "Marine Corps" from 1,105, 189, and 51 in line for major or lieutenant commander to 1,351, 281, and 95, respectively, from 551, 194, and 35 in line for lieutenant colonel or commander to 671, 267, and 40, respectively, and from 171, 147, and 19 in line for colonel or Navy captain to 234, 170, and 21, respectively.

1981—Subsec. (a). Pub. L. 97-86 increased numbers in columns headed "Army" and "Air Force" from 821 and 170 in line for major or lieutenant commander to 1,105 and 189, respectively, from 503 and 183 in line for lieutenant colonel or commander to 551 and 194, respectively, and from 163 and 146 in line for colonel or Navy captain to 171 and 147, respectively.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title IV, §415(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-94, provided that: "The amendments made by this section [amending this section and section 12012 of this title] shall take effect on October 1, 2000."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title IV, §414(c), Oct. 17, 1998, 112 Stat. 1998, provided that: "The amendments made by this section [amending this section and section 12012 of this title] shall take effect [sic] on October 1, 1998."

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.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title IV, §413(b)(2), Nov. 29, 1989, 103 Stat. 1433, provided that the amendment made by that section is effective Oct. 1, 1990.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title IV, §413(b)(2), Dec. 4, 1987, 101 Stat. 1083, provided that the amendment made by that section is effective Oct. 1, 1988.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Oct. 1, 1985, see section 413(c) of Pub. L. 99-145, set out as a note under section 517 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective Oct. 1, 1984, see section 413(c) of Pub. L. 98-525, set out as a note under section 517 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-94 effective Oct. 1, 1983, see section 503(c) of Pub. L. 98-94, set out as a note under section 517 of this title.

§ 12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard

(a) LIMITATIONS.—Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members in each of pay grades of E-8 and E-9 who may be serving on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

Total number of members of a reserve component serving on full-time reserve component duty:	Number of members of that reserve component who may be serving in the grade of:	
	E-8	E-9
Army Reserve:		
10,000	1,052	154
11,000	1,126	168
12,000	1,195	180
13,000	1,261	191
14,000	1,327	202
15,000	1,391	213
16,000	1,455	224
17,000	1,519	235
18,000	1,583	246
19,000	1,647	257
20,000	1,711	268
21,000	1,775	278
Army National Guard:		
20,000	1,650	550
22,000	1,775	615
24,000	1,950	645
26,000	2,100	675
28,000	2,250	715
30,000	2,400	735
32,000	2,500	760
34,000	2,600	780
36,000	2,700	800
38,000	2,800	820
40,000	2,900	830
42,000	3,000	840
Navy Reserve:		
10,000	340	143
11,000	364	156
12,000	386	169
13,000	407	182
14,000	423	195
15,000	435	208
16,000	447	221
17,000	459	234
18,000	471	247
19,000	483	260
20,000	495	273
21,000	507	286
22,000	519	299
23,000	531	312
24,000	540	325
Marine Corps Reserve:		
1,100	50	11
1,200	55	12
1,300	60	13
1,400	65	14
1,500	70	15
1,600	75	16

Total number of members of a reserve component serving on full-time reserve component duty:	Number of members of that reserve component who may be serving in the grade of:	
	E-8	E-9
1,700	80	17
1,800	85	18
1,900	89	19
2,000	93	20
2,100	96	21
2,200	99	22
2,300	101	23
2,400	103	24
2,500	105	25
2,600	107	26
Air Force Reserve:		
500	75	40
1,000	145	75
1,500	208	105
2,000	270	130
2,500	325	150
3,000	375	170
3,500	420	190
4,000	460	210
4,500	495	230
5,000	530	250
5,500	565	270
6,000	600	290
7,000	670	330
8,000	740	370
10,000	800	400
Air National Guard:		
5,000	1,020	405
6,000	1,070	435
7,000	1,120	465
8,000	1,170	490
9,000	1,220	510
10,000	1,270	530
11,000	1,320	550
12,000	1,370	570
13,000	1,420	589
14,000	1,470	608
15,000	1,520	626
16,000	1,570	644
17,000	1,620	661
18,000	1,670	678
19,000	1,720	695
20,000	1,770	712.

(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in the first column of the table in subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the table in subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in the table at the same proportion as is reflected in the nearest limit shown in the table.

(c) REALLOCATIONS TO LOWER GRADE.—Whenever the number of members serving in pay grade E-9 for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the

number authorized under this section for pay grade E-8.

(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve enlisted members that may be on active duty or full-time National Guard duty as described in subsection (a) for a reserve component in a pay grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for that grade and reserve component in the table.

(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term “full-time reserve component duty” has the meaning given the term in section 12011(e) of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2987; amended Pub. L. 104-106, div. A, title IV, §414(b), title XV, §1501(b)(10), Feb. 10, 1996, 110 Stat. 288, 496; Pub. L. 105-261, div. A, title IV, §414(b), Oct. 17, 1998, 112 Stat. 1998; Pub. L. 106-65, div. A, title IV, §414(b), Oct. 5, 1999, 113 Stat. 586; Pub. L. 106-398, §1 [[div. A], title IV, §§415(b), 421(c), 424(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-94 to 1654A-96; Pub. L. 107-107, div. A, title IV, §415(b), Dec. 28, 2001, 115 Stat. 1073; Pub. L. 108-375, div. A, title X, §1084(d)(34), Oct. 28, 2004, 118 Stat. 2063; Pub. L. 109-163, div. A, title V, §515(b)(1)(II), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 110-417, [div. A], title V, §512(c), Oct. 14, 2008, 122 Stat. 4440.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 517(b), (c) of this title, prior to amendment by Pub. L. 103-337, §1662(a)(4).

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-417 inserted section of table relating to the Army National Guard and struck out corresponding former section.

2006—Subsec. (a). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve” in table.

2004—Subsec. (a). Pub. L. 108-375 inserted colon after “Air National Guard” in table.

2001—Subsec. (a). Pub. L. 107-107 inserted heading and amended text of subsec. (a) generally. Prior to amendment, text consisted of table setting out maximum number of enlisted members in pay grades E-8 and E-9 who may be on active duty (other than for training) or on full-time National Guard duty (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard.

Subsec. (b). Pub. L. 107-107 inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: “Whenever the number of members serving in pay grade E-9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E-8.”

Subsec. (c). Pub. L. 107-107 inserted heading and amended text of subsec. (c) generally. Prior to amendment, text read as follows: “Whenever under section 527

of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section."

Subsec. (d). Pub. L. 107-107 inserted heading and amended text of subsec. (d) generally. Prior to amendment, text read as follows: "Upon increasing under subsection (c)(2) of section 115 of this title the end strength that is authorized under subsection (a)(1)(B) of that section for a fiscal year for active-duty personnel and full-time National Guard duty personnel of an armed force who are to be paid from funds appropriated for reserve personnel, the Secretary of Defense may increase for that fiscal year the limitation that is set forth in subsection (a) of this section for the number of enlisted members of that armed force serving in any grade if the Secretary determines that such action is in the national interest. The percent of the increase may not exceed the percent by which the Secretary increases that end strength."

Subsec. (e). Pub. L. 107-107 added subsec. (e).

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title IV, §415(b)], amended table generally, increasing the fiscal year limitation on number of enlisted members in the Army in grade of E-9 from 645 to 764 and in grade of E-8 from 2,593 to 2,821, and in the Air Force in grade of E-9 from 405 to 502 and in grade of E-8 from 1,041 to 1,117.

Subsec. (c). Pub. L. 106-398, §1 [[div. A], title IV, §421(c)], added subsec. (c).

Subsec. (d). Pub. L. 106-398, §1 [[div. A], title IV, §424(b)], added subsec. (d).

1999—Subsec. (a). Pub. L. 106-65 amended table generally, increasing the fiscal year limitation on number of enlisted members in the Army in grade of E-9 from 623 to 645 and in grade of E-8 from 2,585 to 2,593, and in the Air Force in grade of E-9 from 395 to 405 and in grade of E-8 from 997 to 1,041.

1998—Subsec. (a). Pub. L. 105-261, in table, in grade E-9 increased figure for Army from 603 to 623 and for Air Force from 366 to 395, and in grade E-8 increased figure for Air Force from 890 to 997.

1996—Pub. L. 104-106, §1501(b)(10), substituted "the National" for "National" in section catchline.

Subsec. (a). Pub. L. 104-106, §414(b), in table, in grade E-9, increased figure for Army from 569 to 603, for Air Force from 328 to 366, and for Marine Corps from 14 to 20, and in grade E-8, increased figure for Air Force from 840 to 890 and for Marine Corps from 74 to 94. All other figures remained unchanged.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1 [[div. A], title IV, §415(b)] of Pub. L. 106-398 effective Oct. 1, 2000, see section 1 [[div. A], title IV, §415(c)] of Pub. L. 106-398, set out as a note under section 12011 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-261 effective Oct. 1, 1998, see section 414(c) of Pub. L. 105-261, set out as a note under section 12011 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1501(b)(10) of 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

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

CHAPTER 1203—ENLISTED MEMBERS

Sec.
12101. Definition.

Sec.
12102. Reserve components: qualifications.
12103. Reserve components: terms.
12104. Reserve components: transfers.
12105. Army Reserve and Air Force Reserve: transfer from Guard components.
12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard.
12107. Army National Guard of United States; Air National Guard of the United States: enlistment in.
12108. Enlisted members: discharge or retirement for years of service or for age.

AMENDMENTS

2001—Pub. L. 107-107, div. A, title V, §517(f)(2), Dec. 28, 2001, 115 Stat. 1096, added item 12108.

§ 12101. Definition

In this chapter, the term "enlistment" means original enlistment or reenlistment.

(Added Pub. L. 103-337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2988.)

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 12102. Reserve components: qualifications

(a) To become an enlisted member of a reserve component a person must be enlisted as a Reserve of an armed force and subscribe to the oath prescribed by section 502 of this title, or be transferred to that component according to law. In addition, to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, he must meet the requirements of section 12107 of this title.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the enlistment of persons as Reserves of the armed forces under his jurisdiction. However, no person may be enlisted as a Reserve unless—

(1) he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(2) he has previously served in the armed forces or in the National Security Training Corps.

(c) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be assigned, may be enlisted as a Reserve of any armed force under the jurisdiction of that Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 17, §510; Pub. L. 88-236, Dec. 23, 1963, 77 Stat. 474; Pub. L. 90-130, §1(2), Nov. 8, 1967, 81 Stat. 374; Pub. L. 90-623, §2(3), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96-513, title V, §511(13), Dec. 12, 1980, 94 Stat. 2921; renumbered §12102 and amended Pub. L. 103-337, div. A, title XVI, §§1631(a), 1662(b)(2), 1675(a), Oct. 5, 1994, 108 Stat. 2964, 2989, 3017; Pub. L. 104-106, div. A, title XV, §1501(a)(5)(A), Feb. 10, 1996, 110 Stat. 495.)