

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.
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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.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
510(a)	50:952 (less proviso).	July 9, 1952, ch. 608, §§217
510(b)	50:941(a) (as applicable to enlistments).	(less (c), as applicable to enlistments), 228
510(c)	50:941(b) (as applicable to enlistments).	(less proviso), 232 (as applicable to enlistments), 66 Stat. 486,
510(d)	50:956 (as applicable to enlistments).	488, 489.

In subsection (a), the last sentence is inserted to reflect sections 3261 and 8261 of this title.

In subsection (b), the word “However” is substituted for the words “Subject to the limitation that”. The words “as Reserves in the armed forces under his jurisdiction” are substituted for the words “of Reserve members of the Armed Forces of the United States”. The words “its Territories” are omitted as surplusage, since citizens of the Territories are citizens of the United States.

In subsection (c), the words “armed force concerned” are substituted for the words “of the appropriate Armed Force of the United States”. The words “in which she previously served satisfactorily” are substituted for the words “satisfactorily held by her”.

In subsection (d), the words “under the jurisdiction of that Secretary” are inserted for clarity. The words “general or special” are omitted as surplusage.

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104-106 made technical correction to directory language of Pub. L. 103-337, §1631(a). See 1994 Amendment note below.

1994—Pub. L. 103-337, §1662(b)(2), renumbered section 510 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(a), substituted “12107” for “3261 or 8261”.

Subsecs. (c), (d). Pub. L. 103-337, §1631(a), as amended by Pub. L. 104-106, redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “Women may be enlisted as Reserves of the armed forces. Women are enlisted in the grades and ratings authorized for enlisted women of the regular component of the armed force concerned. Any female former enlisted member of an armed force may, if otherwise qualified, be enlisted as a Reserve of that armed force in the highest grade or rating in which she previously served satisfactorily on active duty (other than for training).”

1980—Subsec. (b)(1). Pub. L. 96-513 substituted “the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)” for “chapter 12 of title 8”.

1968—Subsec. (a). Pub. L. 90-623 substituted “section 502” for “section 501”.

1967—Subsec. (c). Pub. L. 90-130 struck out provision limiting the reserve components in which women may be enlisted as Reserves of the armed forces to the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve.

1963—Subsec. (b)(1). Pub. L. 88-236 substituted “he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under chapter 12 of title 8” for “he is, or has made a declaration of intention to become, a citizen of the United States or of a possession thereof”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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 OF 1994 AMENDMENT

Amendment by sections 1662(b)(2) and 1675(a) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1631(a) of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS OF THE ARMED FORCES

Pub. L. 99-661, div. A, title V, §523, Nov. 14, 1986, 100 Stat. 3871, as amended by Pub. L. 100-180, div. A, title V, §503, Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101-189, div. A, title V, §504, Nov. 29, 1989, 103 Stat. 1437, which provided that, in determining under section 510 [now 12102] of title 10 whether a person who is applying to enlist in a reserve component of the Armed Forces upon discharge or release from active duty is qualified for enlistment as a Reserve of an Armed Force, the Secretary concerned may not disqualify the person because the person is a single parent if the person is otherwise qualified for enlistment, the person became a single parent while serving on active duty, and the person's status as a single parent was not a factor in the person's discharge or release from active duty, with provision that the requirements imposed with respect to parenthood not be more stringent than those imposed on a member who becomes a single parent during the term of the member's enlistment, and with provision defining “single parent” as a person who is not married and who has custody of a child under the age of 18 pursuant to a court order, expired on Sept. 30, 1991.

§ 12103. Reserve components: terms

(a) Except as otherwise prescribed by law, enlistments as Reserves are for terms prescribed by the Secretary concerned. However, an enlistment that is in effect at the beginning of a war or of a national emergency declared by Congress, or entered into during such a war or emergency, and that would otherwise expire, continues in effect until the expiration of six months after the end of that war or emergency, whichever is later, unless sooner terminated by the Secretary concerned.

(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, a person who is qualified for enlistment for active duty in an armed force, and who is not under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. 3801 et seq.), may be enlisted as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term of not less than six years nor more than eight years. Each person enlisted under this subsection shall serve—