

Guard, unless that person had been awarded a baccalaureate degree by an accredited educational institution, prior to repeal by Pub. L. 103-35, title II, §203(a), May 31, 1993, 107 Stat. 102. See section 12205 of this title.

PRIORITY IN MAKING ORIGINAL APPOINTMENTS IN GUARD AND RESERVE COMPONENTS FOR ROTC SCHOLARSHIP PROGRAM GRADUATES

Pub. L. 102-190, div. A, title V, §524, Dec. 5, 1991, 105 Stat. 1363, as amended by Pub. L. 109-163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, provided that: "In making appointments of persons as second lieutenants in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to the grade of ensign in the Navy Reserve, or in granting federal recognition in the grade of second lieutenant to members of the Army National Guard or Air National Guard, the Secretary of the military department concerned shall give preference to persons who have completed a post-secondary program of education pursued under a ROTC scholarship program at a college or university accredited to award baccalaureate degrees or pursued under a ROTC scholarship program at an accredited two-year or four-year military college."

REPORT ON INITIAL APPOINTMENT OF ALL OFFICERS AS RESERVE OFFICERS AND ON APPROPRIATE ACTIVE DUTY OBLIGATION OF GRADUATES OF SERVICE ACADEMIES

Pub. L. 101-510, div. A, title V, §524, Nov. 5, 1990, 104 Stat. 1562, directed Secretary of Defense to submit to Congress a report on advantages, disadvantages, and desirability of initially appointing all persons commissioned as officers in the Army, Navy, Air Force, or Marine Corps as Reserve officers, and the appropriate active duty service obligation for graduates of the service academies, directed Secretary to submit report not later than 60 days after Nov. 5, 1990, and provided that if the report was not submitted by that date, all persons initially appointed as commissioned officers in the Army, Navy, Air Force, and Marine Corps after that date would be appointed as commissioned officers in a Reserve component of the Armed Forces, and all persons entering the service academies after that date would incur an obligation to serve on active duty for a period of five years.

DEADLINE FOR REGULATIONS IMPLEMENTING SUBSECTION (e) OF THIS SECTION

Pub. L. 100-180, div. A, title VII, §718(b), Dec. 4, 1987, 101 Stat. 1115, provided that: "The Secretary concerned shall prescribe regulations implementing subsection (e) of section 591 [now 12201(d)] of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987]."

§ 12202. Commissioned officer grades

Except for commissioned warrant officers, the reserve commissioned officer grades in each armed force are those authorized for regular commissioned officers of that armed force.

(Added Pub. L. 85-861, §1(10)(B), Sept. 2, 1958, 72 Stat. 1440, §592; renumbered §12202, Pub. L. 103-337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
592	50:1181(1) (as applicable to 50:1201). 50:1201.	Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §211), 211, 68 Stat. 1149, 1153.

The words "including those heretofore or hereafter transferred to the Retired Reserve", "permanent", and

"pursuant to the Officer Personnel Act of 1947, as amended" are omitted as surplusage. The rule as to the Coast Guard is consolidated with the rule applicable to the other armed forces, since 14:754 prescribes the same substantive result as that prescribed by 50:1201 for the other armed forces.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 592 of this title as this section.

§ 12203. Commissioned officers: appointment, how made; term

(a) Appointments of reserve officers in commissioned grades of lieutenant colonel and commander or below, except commissioned warrant officer, shall be made by the President alone. Appointments of reserve officers in commissioned grades above lieutenant colonel and commander shall be made by the President, by and with the advice and consent of the Senate, except as provided in section 624, 12213, or 12214 of this title.

(b) Subject to the authority, direction, and control of the President, the Secretary concerned may appoint as a reserve commissioned officer any regular officer transferred from the active-duty list of an armed force to the reserve active-status list of a reserve component under section 647 of this title, notwithstanding the requirements of subsection (a).

(c) Appointments of Reserves in commissioned grades are for an indefinite term and are held during the pleasure of the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, §593; Pub. L. 85-861, §1(10)(C), Sept. 2, 1958, 72 Stat. 1440; Pub. L. 92-129, title VI, §601, Sept. 28, 1971, 85 Stat. 361; Pub. L. 96-513, title V, §501(7), Dec. 12, 1980, 94 Stat. 2907; renumbered §12203 and amended Pub. L. 103-337, div. A, title XVI, §§1632, 1662(c)(2), 1675(b)(1), Oct. 5, 1994, 108 Stat. 2965, 2990, 3017; Pub. L. 104-106, div. A, title XV, §1501(a)(6), Feb. 10, 1996, 110 Stat. 495; Pub. L. 108-375, div. A, title V, §501(c)(4), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 111-383, div. A, title X, §1075(b)(54), Jan. 7, 2011, 124 Stat. 4372.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
593(a)	50:942. 50:943.	July 9, 1952, ch. 608, §§218, 219, 221, 224 (less 3d and 4th sentences, as applicable to commissioned officers), 66 Stat. 487.
593(b)	50:945. 50:948 (less 3d and 4th sentences, as applicable to commissioned officers).	

In subsection (a), the word "alone" is inserted for clarity. The exception as to commissioned warrant officers is inserted to reflect section 597 of this title, since reserve chief warrant officers of the Navy, Marine Corps, and Coast Guard are appointed by commission by the Secretary concerned.

In subsection (b), 50:948 (2d and last sentences) is omitted as executed.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
593(a)	[No source].	[No source].

The exception is inserted to reflect section 3352(b) of title 10, United States Code.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-383 substituted “of” for “above” in first sentence.

2004—Subsecs. (b), (c). Pub. L. 108-375 added subsec. (b) and redesignated former subsec. (b) as (c).

1996—Subsec. (a). Pub. L. 104-106 made technical correction to directory language of Pub. L. 103-337, § 1632. See 1994 Amendment note below.

1994—Pub. L. 103-337, § 1662(c)(2), renumbered section 593 of this title as this section.

Subsec. (a). Pub. L. 103-337, § 1675(b), substituted “12213, or 12214” for “3352, or 8352”.

Pub. L. 103-337, § 1632, as amended by Pub. L. 104-106, substituted “reserve officers in commissioned grades of lieutenant colonel and commander or below” for “Reserves in commissioned grades below lieutenant colonel and commander” and “reserve officers in commissioned grades above lieutenant colonel and commander” for “Reserves in commissioned grades above major and lieutenant commander”.

1980—Subsec. (a). Pub. L. 96-513 inserted reference to section 624 of this title.

1971—Subsec. (a). Pub. L. 92-129 substituted “below lieutenant colonel and commander” for “below general officer and flag officer”, “in commissioned grades above major and lieutenant commander” for “as general and flag officers”, and “section 3352 or 8352 of this title” for “section 3352 of this title”.

1958—Subsec. (a). Pub. L. 85-861 inserted “, except as provided in section 3352 of this title” after “consent of the Senate”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108-375, set out as a note under section 531 of this title.

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(c)(2) and 1675(b)(1) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1632 of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

DELEGATION OF FUNCTIONS

For assignment of functions of President under first sentence of subsec. (a) of this section, see sections 1(b) and 2(b) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

INDEFINITE APPOINTMENTS FOR CERTAIN RESERVE OFFICERS

Act Aug. 10, 1956, ch. 1041, § 41, 70A Stat. 636, provided that: “Each person who was a reserve officer on July 9, 1952, and who did not hold an appointment for an indefinite term on that date, shall be given an appointment for an indefinite term in place of the appointment he then held, if after written notification by competent authority before July 2, 1953, the officer agrees in writing to have that appointment continued for an indefinite term. In the event such officer does not agree in writing, the term of his current appointment shall not be changed by this section.”

§ 12204. Commissioned officers: original appointment; limitation

(a) No person may be appointed as a Reserve in a commissioned grade above major or lieutenant commander, unless—

(1) he was formerly a commissioned officer of an armed force; or

(2) such an appointment is recommended by a board of officers convened by the Secretary concerned.

(b) This section does not apply to adjutants general and assistant adjutants general of the several States, Puerto Rico, and the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, § 594; Pub. L. 100-456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered § 12204, Pub. L. 103-337, div. A, title XVI, § 1662(c)(2), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 109-163, div. A, title X, § 1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
594(a)	50:941(c) (less 1st 21 words).	July 9, 1952, ch. 608 § 217(c), 66 Stat. 487.
594(b)	50:941(c) (1st 21 words).	

In subsection (a), the words “unless * * * he was formerly” are substituted for the words “has not held an appointment as”. The words “or any component thereof” are omitted as surplusage.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-163 struck out “and Territories” after “States”.

1994—Pub. L. 103-337 renumbered section 594 of this title as this section.

1988—Subsec. (b). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

§ 12205. Commissioned officers: appointment; educational requirement

(a) IN GENERAL.—No person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Navy Reserve, or be federally recognized in a grade above the grade of first lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by a qualifying educational institution.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) The appointment to or recognition in a higher grade of a person who is appointed in or assigned for service in a health profession for which a baccalaureate degree is not a condition of original appointment or assignment.

(2) The appointment in the Navy Reserve or Marine Corps Reserve of a person appointed for service as an officer designated as a limited duty officer.

(3) The appointment in the Navy Reserve of a person appointed for service under the Naval Aviation Cadet (NAVCAD) program or the Seaman to Admiral program.

(4) The appointment to or recognition in a higher grade of any person who was appointed