

**§ 12401. Army and Air National Guard of the United States: status**

Members of the Army National Guard of the United States and the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

(Added Pub. L. 103-337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3495 and 8495 of this title, prior to repeal by Pub. L. 103-337, §1662(f)(2).

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.

**§ 12402. Army and Air National Guard of the United States: commissioned officers; duty in National Guard Bureau**

(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States and the Air National Guard of the United States to active duty in the National Guard Bureau.

(b)(1) The number of officers of the Army National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Army serving in that Bureau in any grade below brigadier general.

(2) The number of officers of the Air National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Air Force authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Air Force serving in that Bureau in any grade below brigadier general.

(Added Pub. L. 103-337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993; amended Pub. L. 104-106, div. A, title XV, §1501(b)(18)(B), Feb. 10, 1996, 110 Stat. 497.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3496 and 8496 of this title, prior to repeal by Pub. L. 103-337, §1662(f)(2).

AMENDMENTS

1996—Pub. L. 104-106 inserted “the” in section catchline.

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

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.

**§ 12403. Army and Air National Guard of the United States: members; status in which ordered into Federal service**

Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

(Added Pub. L. 103-337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993; amended Pub. L. 104-106, div. A, title XV, §1501(b)(18)(B), Feb. 10, 1996, 110 Stat. 497.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3497 and 8497 of this title, prior to repeal by Pub. L. 103-337, §1662(f)(2).

AMENDMENTS

1996—Pub. L. 104-106 inserted “the” in section catchline.

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

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.

**§ 12404. Army and Air National Guard of the United States: mobilization; maintenance of organization**

During an initial mobilization, the organization of a unit of the Army National Guard of the United States or of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

(Added Pub. L. 103-337, div. A, title XVI, §1662(f)(1), Oct. 5, 1994, 108 Stat. 2993; amended Pub. L. 104-106, div. A, title XV, §1501(b)(18)(B), Feb. 10, 1996, 110 Stat. 497.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3498 and 8498 of this title, prior to repeal by Pub. L. 103-337, §1662(f)(2).

AMENDMENTS

1996—Pub. L. 104-106 inserted “the” in section catchline.

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

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.

**§ 12405. National Guard in Federal service: status**

Members of the National Guard called into Federal service are, from the time when they