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.

§ 12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

(a) LIMITATION.—Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system (other than the retirement system under chapter 1223 of this title), may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.

(b) WAIVER.—With respect to a member of a reserve component who is to be ordered to active duty (other than for training) under section 12301 of this title pursuant to an order to active duty that specifies a period of less than 180 days and who (but for this subsection) would be covered by subsection (a), the Secretary concerned may require, as a condition of such order to active duty, that the member waive the applicability of subsection (a) to the member for the period of active duty covered by that order. In carrying out this subsection, the Secretary concerned may require that a waiver under the preceding sentence be executed before the period of active duty begins.

(Added Pub. L. 103–337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104–201, div. A, title V, §533, Sept. 23, 1996, 110 Stat. 2520; Pub. L. 108–375, div. A, title V, §522, Oct. 28, 2004, 118 Stat. 1888.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(d) of this title, prior to repeal by Pub. L. 103–337, §1662(i)(2).

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–375 inserted ''(other than the retirement system under chapter 1223 of this title)'' after ''retirement system''.

1996—Pub. L. 104–201 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

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.

§ 12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months.

(Added Pub. L. 104–106, div. A, title V, §563(a)(2)(A), Feb. 10, 1996, 110 Stat. 325.)

CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

AMENDMENTS

2009—Pub. L. 111–84, div. A, title VI, §643(e)(2), Oct. 28, 2009, 123 Stat. 2367, substituted ''Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement'' for ''Retirement from active reserve service performed after regular retirement'' in item 12741.

2000—Pub. L. 106–398, §1 [[div. A], title VI, §653(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–165, added item 12741.

1999—Pub. L. 106–65, div. A, title VI, §653(b)(2), Oct. 5, 1999, 113 Stat. 667, added item 12731b.

1996—Pub. L. 104–106, div. A, title VI, §632(a)(2), Feb. 10, 1996, 110 Stat. 365, added item 12740.

1994—Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, renumbered chapter 67 of this title as this chapter and amended analysis generally, renumbering items 1331 to 1338 as items 12731 to 12738, respectively, substituting ''Entitlement to retired pay: computation of years of service'' for ''Computation of years of service in determining entitlement to retired pay'' in item 12732 and ''Computation of retired pay: computation of years of service'' for ''Computation of years of service in computing retired pay'' in item 12733, and adding item 12739.

1992—Pub. L. 102–484, div. D, title XLIV, §4417(b), Oct. 23, 1992, 106 Stat. 2717, added item 1331a.

1986—Pub. L. 99–348, title III, §304(b)(1), July 1, 1986, 100 Stat. 703, added item 1338.

§ 12731. Age and service requirements

(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

(1) has attained the eligibility age applicable under subsection (f) to that person;

(2) has performed at least 20 years of service computed under section 12732 of this title;

(3) in the case of a person who completed the service requirements of paragraph (2) before April 25, 2005, performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight; and