

1119; Pub. L. 112-81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

AMENDMENTS

2013—Subsecs. (a), (b)(2)(A). Pub. L. 112-239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, §631(f)(4)(A). See 2011 Amendment note below.

2011—Subsecs. (a), (b)(2)(A). Pub. L. 112-81, §631(f)(4)(A), as amended by Pub. L. 112-239, §1076(a)(9), substituted “495” for “435”.

2001—Subsec. (a). Pub. L. 107-107 inserted at end “Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.”

2000—Subsec. (b)(2). Pub. L. 106-398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “if authorized by the Secretary concerned, the allowance under section 435 of title 37.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 applicable to funeral honors duty performed on or after Oct. 30, 2000, see section 562(c) of Pub. L. 107-107, set out as a note under section 12503 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 applicable with respect to funeral honors duty performed on or after Oct. 1, 2000, see section 1 [(div. A), title V, §575(c)] of Pub. L. 106-398, set out as a note under section 12503 of Title 10, Armed Forces.

CHAPTER 3—PERSONNEL

- Sec.
301. Federal recognition of enlisted members.
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304. Enlistment oath.
305. Federal recognition of commissioned officers: persons eligible.
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312. Appointment oath.
313. Appointments and enlistments: age limitations.
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316. Detail of members of Army National Guard for rifle instruction of civilians.
317. Command during joint exercises with Federal troops.
[318 to 321. Repealed.]
322. Discharge of enlisted members.
323. Withdrawal of Federal recognition.
324. Discharge of officers; termination of appointment.
325. Relief from National Guard duty when ordered to active duty.
326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures.

- Sec.
327. Courts-martial of National Guard not in Federal service: convening authority.
328. Active Guard and Reserve duty: Governor's authority.
[329 to 335. Repealed.]

AMENDMENTS

2006—Pub. L. 109-364, div. A, title V, §526(b), Oct. 17, 2006, 120 Stat. 2196, added item 328.

2002—Pub. L. 107-314, div. A, title V, §512(d), Dec. 2, 2002, 116 Stat. 2537, added item 327 and struck out former items 327 “General courts-martial of National Guard not in Federal service”, 328 “Special courts-martial of National Guard not in Federal service”, 329 “Summary courts-martial of National Guard not in Federal service”, 330 “Confinement instead of fine”, 331 “Dismissal or dishonorable discharge”, 332 “Compelling attendance of accused and witnesses”, and 333 “Execution of process and sentence”.

1994—Pub. L. 103-337, div. A, title XVI, §1676(a)(4), Oct. 5, 1994, 108 Stat. 3019, substituted “National Guard officers:” for “officers: Army National Guard;” in items 309 and 310.

1986—Pub. L. 99-661, div. A, title VI, §604(f)(2)(B), Nov. 14, 1986, 100 Stat. 3878, struck out item 318 “Compensation for disablement during training”, item 319 “Compensation for disablement during training when not covered by section 318 of this title”, item 320 “Hospitalization: when Secretary may require”, and item 321 “Death gratuity”.

1984—Pub. L. 98-525, title IV, §414(b)(2)(B), Oct. 19, 1984, 98 Stat. 2519, struck out item 335 “Status of certain members performing full-time duty”.

1983—Pub. L. 98-94, title V, §504(b)(2), Sept. 24, 1983, 97 Stat. 632, added item 335.

1981—Pub. L. 97-124, §3, Dec. 29, 1981, 95 Stat. 1666, struck out item 334 “Payment of malpractice liability of National Guard Medical personnel”.

1980—Pub. L. 96-513, title V, §515(1), Dec. 12, 1980, 94 Stat. 2937, inserted “of officers” after “recognition” in item 307.

1976—Pub. L. 94-464, §2(c), Oct. 8, 1976, 90 Stat. 1988, added item 334.

1961—Pub. L. 87-378, §5(2), Oct. 4, 1961, 75 Stat. 808, inserted “, reenlistments, and extensions” in item 302.

1958—Pub. L. 85-861, §2(8), Sept. 2, 1958, 72 Stat. 1544, added items 309 and 310.

REMOVAL OF RESTRICTIONS ON THE TRANSFER OF OFFICERS BETWEEN THE ACTIVE AND INACTIVE NATIONAL GUARD

Pub. L. 113-66, div. A, title V, §512, Dec. 26, 2013, 127 Stat. 752, as amended by Pub. L. 114-328, div. A, title V, §514, Dec. 23, 2016, 130 Stat. 2113, provided that:

“(a) ARMY NATIONAL GUARD.—During the period ending on December 31, 2019, under regulations prescribed by the Secretary of the Army:

“(1) An officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard.

“(2) An officer of the Army National Guard transferred to the inactive Army National Guard pursuant to paragraph (1) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit.

“(b) AIR NATIONAL GUARD.—During the period ending on December 31, 2019, under regulations prescribed by the Secretary of the Air Force:

“(1) An officer of the Air National Guard who fills a vacancy in a federally recognized unit of the Air National Guard may be transferred from the active Air National Guard to the inactive Air National Guard.

“(2) An officer of the Air National Guard transferred to the inactive Air National Guard pursuant to paragraph (1) may be transferred from the inactive

Air National Guard to the active Air National Guard to fill a vacancy in a federally recognized unit.”

§ 301. Federal recognition of enlisted members

To be eligible for Federal recognition as an enlisted member of the National Guard, a person must have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved. He becomes federally recognized upon enlisting in a federally recognized unit or organization of the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
301	50:1113(a) (as applicable to enlisted members).	July 9, 1952, ch. 608, § 703(a) (as applicable to enlisted members), 66 Stat. 502.

§ 302. Enlistments, reenlistments, and extensions

(a) Under regulations to be prescribed by the Secretary concerned, original enlistments in the National Guard may be accepted for—

(1) any specified term, not less than three years, for persons who have not served in an armed force; or

(2) any specified term, not less than one year, for persons who have served in any armed force.

(b) Under regulations to be prescribed by the Secretary concerned, reenlistment in the National Guard may be accepted for any specified period, or, if the person last served in one of the highest five enlisted grades, for an unspecified period.

(c) Enlistments or reenlistments in the National Guard may be extended—

(1) under regulations to be prescribed by the Secretary concerned, at the request of the member, for any period not less than six months; or

(2) by proclamation of the President, if Congress declares an emergency, until six months after termination of that emergency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Pub. L. 87-378, § 5(1), Oct. 4, 1961, 75 Stat. 808.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
302	32:124.	June 3, 1916, ch. 134, § 69; restated July 11, 1919, ch. 8 (20th par. under “National Guard”); restated June 4, 1920, ch. 227, subch. I, § 37; restated June 6, 1924, ch. 275, § 4; restated June 15, 1933, ch. 87, § 7, 48 Stat. 156; July 9, 1952, ch. 608, § 806(a), 66 Stat. 506.

32:124 (1st proviso) is omitted as executed. The word “reenlistments” is substituted for the words “subsequent enlistments”.

AMENDMENTS

1961—Pub. L. 87-378 permitted original enlistments for any specified term, not less than three years, for persons who have not served in an armed force, author-

ized reenlistments for any specified period, or if the person last served in one of the highest five enlisted grades, for an unspecified period, extensions of enlistments or reenlistments at the request of the member for any period not less than six months after termination of the emergency.

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-378, § 6, Oct. 4, 1961, 75 Stat. 808, provided that: “The amendments made by sections 3, 4, and 5 of this Act [amending this section and sections 3261 and 3261 of Title 10, Armed Forces] shall not affect any enlistment, reenlistment, or appointment entered into or made before the effective date of this Act [Oct. 4, 1961].”

§ 303. Active and inactive enlistments and transfers

(a) Under regulations to be prescribed by the Secretary of the Army, a person qualified for enlistment in the active Army National Guard may be enlisted in the inactive Army National Guard for a single term of one or three years. Under regulations prescribed by the Secretary of the Air Force, a person qualified for enlistment in the active Air National Guard may be enlisted in the inactive Air National Guard for a single term of one or three years.

(b) Under such regulations as the Secretary of the Army may prescribe, an enlisted member of the active Army National Guard, not formerly enlisted in the inactive Army National Guard, may be transferred to the inactive Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, an enlisted member of the active Air National Guard, not formerly enlisted in the inactive Air National Guard, may be transferred to the inactive Air National Guard. Under such regulations as the Secretary concerned may prescribe, a person enlisted in or transferred to the inactive Army National Guard or the inactive Air National Guard may be transferred to the active Army National Guard or the active Air National Guard, as the case may be.

(c) In time of peace, no enlisted member may be required to serve for a period longer than that for which he enlisted in the active or inactive National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Pub. L. 87-649, § 14e(1), Sept. 7, 1962, 76 Stat. 502; Pub. L. 96-513, title V, § 515(2), Dec. 12, 1980, 94 Stat. 2937.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
303(a)	32:132.	June 3, 1916, ch. 134, § 78 (1st and 2d sentences); restated June 4, 1920, ch. 227, subch. I, § 42 (less provisos); restated Feb. 28, 1925, ch. 371, § 2 (1st and 2d sentences); restated June 15, 1933, ch. 87, § 15 (1st and 2d sentences), 48 Stat. 159; July 9, 1952, ch. 608, § 806(f), 66 Stat. 507.
303(b)	32:133 (less proviso).	June 3, 1916, ch. 134, § 110 (1st 30 words of last par.); restated Sept. 22, 1922, ch. 423, § 6 (1st 30 words of last par.); restated May 12, 1928, ch. 529 (1st 30 words), 45 Stat. 500.
303(c)	32:154 (1st 26 words of last par.).	
303(d)	32:133 (proviso).	