

**§ 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 are required to respond to the call, subject to the laws and regulations governing the Army or the Air Force, as the case may be, except those applicable only to members of the Regular Army or Regular Air Force, as the case may be.

(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 3499 and 8499 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.

**§ 12406. National Guard in Federal service: call**

Whenever—

(1) the United States, or any of the Commonwealths or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary

to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(f)(1), Oct. 5, 1994, 108 Stat. 2994; amended Pub. L. 109-163, div. A, title X, § 1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3500 and 8500 of this title, prior to repeal by Pub. L. 103-337, § 1662(f)(2).

AMENDMENTS

2006—Par. (1). Pub. L. 109-163 substituted “Commonwealths or possessions” for “Territories, Commonwealths, or possessions”.

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.

**§ 12407. National Guard in Federal service: period of service; apportionment**

(a) Whenever the President calls the National Guard of a State into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the National Guard may be kept in Federal service beyond the term of his commission or enlistment.

(b) When the National Guard of a State is called into Federal service with the National Guard of another State, the President may apportion the total number called from the Army National Guard or from the Air National Guard, as the case may be, on the basis of the populations of the States affected by the call.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(f)(1), Oct. 5, 1994, 108 Stat. 2994; amended Pub. L. 104-106, div. A, title XV, § 1501(b)(19), Feb. 10, 1996, 110 Stat. 497.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3501 and 8501 of this title, prior to repeal by Pub. L. 103-337, § 1662(f)(2).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-106 substituted “another State” for “another of those jurisdictions” and “States affected” for “jurisdictions affected”.

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.

**§ 12408. National Guard in Federal service: physical examination**

(a) Under regulations prescribed by the President, each member of the National Guard called

into Federal service under section 12301(a), 12302, or 12304 of this title shall be examined as to physical fitness, without further commission or enlistment.

(b) Immediately before such a member is mustered out of Federal service, he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(f)(1), Oct. 5, 1994, 108 Stat. 2994; amended Pub. L. 104-201, div. A, title V, § 523, Sept. 23, 1996, 110 Stat. 2517.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3502 and 8502 of this title, prior to repeal by Pub. L. 103-337, § 1662(f)(2).

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-201 inserted “under section 12301(a), 12302, or 12304 of this title” after “called into Federal service”.

#### 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 1213—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

#### Sec.

- 12501. Reserve components: detail of members of regular and reserve components to assist.
- 12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.
- 12503. Ready Reserve: funeral honors duty.
- [12505. Repealed.]

#### AMENDMENTS

2000—Pub. L. 106-398, § 1 [[div. A], title V, § 507(f)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-105, struck out item 12505 “Selection of officers for certain senior reserve component positions”.

1999—Pub. L. 106-65, div. A, title V, §§ 554(a)(2), 578(k)(2)(B), Oct. 5, 1999, 113 Stat. 616, 631, added items 12503 and 12505.

#### § 12501. Reserve components: detail of members of regular and reserve components to assist

The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(g)(1), Oct. 5, 1994, 108 Stat. 2995.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 715 of this title, prior to repeal by Pub. L. 103-337, § 1662(g)(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.

#### § 12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail

(a) The President may detail a regular or reserve officer of the Army as chief of staff, and a

regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

(b) The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(g)(1), Oct. 5, 1994, 108 Stat. 2995.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3542 and 8542 of this title, prior to repeal by Pub. L. 103-337, § 1662(g)(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.

#### § 12503. Ready Reserve: funeral honors duty

(a) ORDER TO DUTY.—A member of the Ready Reserve may be ordered to funeral honors duty, with the consent of the member, in preparation for or to perform funeral honors functions at the funeral of a veteran as defined in section 1491 of this title. Performance of funeral honors duty by a Reserve not on active 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 495 of title 37.

(b) SERVICE CREDIT.—A member ordered to funeral honors duty under this section shall be required to perform a minimum of two hours of such duty in order to receive—

(1) service credit under section 12732(a)(2)(E) of this title; and

(2) as directed by the Secretary concerned, either—

(A) the allowance under section 495 of title 37; or

(B) compensation under section 206 of title 37.

(c) REIMBURSABLE EXPENSES.—A member who performs funeral honors duty under this section may be reimbursed for travel and transportation expenses incurred in conjunction with such duty as authorized under chapter 7 of title 37 if such duty is performed at a location 50 miles or more from the member’s residence.

(d) REGULATIONS.—The exercise of authority under subsection (a) is subject to regulations prescribed by the Secretary of Defense.

(e) MEMBERS OF THE NATIONAL GUARD.—This section does not apply to members of the Army National Guard of the United States or the Air National Guard of the United States. The performance of funeral honors duty by those members is provided for in section 115 of title 32.

(Added Pub. L. 106-65, div. A, title V, § 578(g)(3), Oct. 5, 1999, 113 Stat. 628; amended Pub. L. 106-398, § 1 [[div. A], title V, § 575(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-138; Pub. L. 107-107, div. A, title V, § 562(a), Dec. 28, 2001, 115 Stat.