

## 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.

**§ 12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard**

(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

(Added Pub. L. 103-337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2989.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3260 and 8260 of this title, prior to repeal by Pub. L. 103-337, §1662(b)(3).

## 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.

**§ 12107. Army National Guard of United States; Air National Guard of the United States: enlistment in**

(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

(2) subscribe to the oath set forth in section 304 of title 32; and

(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States.

(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for

service in the Air National Guard of the United States.

(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard, becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.

(Added Pub. L. 103-337, div. A, title XVI, §1662(b)(1), Oct. 5, 1994, 108 Stat. 2989.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3261 and 8261 of this title, prior to repeal by Pub. L. 103-337, §1662(b)(3).

## 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.

**§ 12108. Enlisted members: discharge or retirement for years of service or for age**

Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

(1) be transferred to the Retired Reserve if the member is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(2) be discharged if the member is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

(Added Pub. L. 107-107, div. A, title V, §517(f)(1), Dec. 28, 2001, 115 Stat. 1095.)

## EFFECTIVE DATE

Section effective on the first day of the first month that begins more than 180 days after Dec. 28, 2001, see section 517(g) of Pub. L. 107-107, set out as an Effective Date of 2001 Amendment note under section 10154 of this title.

**CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS**

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AMENDMENTS

2006—Pub. L. 109-364, div. A, title V, § 507(a)(2)(C), Oct. 17, 2006, 120 Stat. 2180, struck out “while so serving” after “reserve grade” in item 12210.

1996—Pub. L. 104-106, div. A, title XV, § 1501(b)(11)(B), (13)(B), Feb. 10, 1996, 110 Stat. 496, substituted “Reserve officers: qualifications” for “Qualifications” in item 12201 and inserted “the” after “National Guard of” in items 12211, 12212, 12213, and 12214.

§ 12201. Reserve officers: qualifications for appointment

(a)(1) To become an officer of a reserve component a person must be appointed as a Reserve of an armed force in a grade corresponding to a grade authorized for the regular component of the armed force concerned and, except as provided in paragraph (2), subscribe to the oath prescribed by section 3331 of title 5. In addition, to become an officer of the Army National Guard of the United States or the Air National Guard of the United States, he must first be appointed to, and be federally recognized in, the same grade in the Army National Guard or the Air National Guard, as the case may be.

(2) If an officer is transferred from the active-duty list of an armed force to a reserve active-status list of an armed force in accordance with regulations prescribed by the Secretary of Defense, the officer is not required to subscribe to the oath referred to in paragraph (1) in order to qualify for an appointment under that paragraph.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the appointment of persons as Reserves of the armed forces under his jurisdiction. However, no person may be appointed as a Reserve unless he is at least 18 years of age and—

(1) he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(2) he has previously served in the armed forces or in the National Security Training Corps.

(c) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be assigned, may be appointed as a Reserve of any armed force under the jurisdiction of that Secretary.

(d) In prescribing age qualifications under subsection (b) for the appointment of persons as Re-

serves of the armed forces under his jurisdiction, the Secretary concerned may not prescribe a maximum age qualification of less than 47 years of age for the initial appointment of a person as a Reserve to serve in a health profession specialty which has been designated by the Secretary concerned as a specialty critically needed in wartime.

(Aug. 10, 1956, ch. 1041, 70A Stat. 24, § 591; Pub. L. 85-861, § 1(10)(A), Sept. 2, 1958, 72 Stat. 1440; Pub. L. 88-236, Dec. 23, 1963, 77 Stat. 474; Pub. L. 89-718, § 4, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90-130, § 1(3), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96-513, title V § 511(16), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 100-180, div. A, title VII, § 718(a), Dec. 4, 1987, 101 Stat. 1115; renumbered § 12201 and amended Pub. L. 103-337, div. A, title XVI, §§ 1631(b), 1662(c)(2), Oct. 5, 1994, 108 Stat. 2964, 2990; Pub. L. 104-106, div. A, title XV, § 1501(a)(5)(B), (b)(11)(A), Feb. 10, 1996, 110 Stat. 495, 496; Pub. L. 108-375, div. A, title V, § 501(c)(3), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 111-383, div. A, title V, § 515, Jan. 7, 2011, 124 Stat. 4213.)

HISTORICAL AND REVISION NOTES  
1956 ACT

| Revised section | Source (U.S. Code)                             | Source (Statutes at Large)   |
|-----------------|--|--|
| 591(a) .....    | 50:946.  | July 9, 1952, ch. 608, §§ 217 (less (c), and less applicability to enlistments). |
| 591(b) .....    | 50:941(a) (less applicability to enlistments). | 222, 232 (less applicability to enlistments), 66 Stat. 486, 487, 489.            |
| 591(c) .....    | 50:941(b) (less applicability to enlistments). |  |
| 591(d) .....    | 50:956 (less applicability to enlistments).    |  |

In subsection (a), 50:946(a) (last 12 words of proviso) is omitted as covered by section 312 of title 32, 50:946(b) is omitted as covered by the revised subsection.

In subsection (b), the word “However” is substituted for the words “Subject to the limitation that”. The exception as to section 4(i)(7) of the Universal Military Training and Service Act is inserted for clarity. The words “as Reserves of the armed forces under his jurisdiction” are substituted for the words “of Reserve members of the Armed Forces of the United States”. The words “unless he is at least 18 years of age” are substituted for 50:941(a) (last sentence). The words “its Territories” are omitted as surplusage, since citizens of the Territories are citizens of the United States.

In subsection (c), the words “armed force concerned” are substituted for the words “of the appropriate Armed Force of the United States”. The words “in the grades corresponding to the grades authorized for female officers of the” are substituted for the words “in the same grades \* \* \* as are authorized for women in the”, to conform to subsection (a). The words “in which she previously served satisfactorily” are substituted for the words “satisfactorily held by her”.

In subsection (d), the words “under the jurisdiction of that Secretary” are inserted for clarity. The words “general or special” are omitted as surplusage.

1958 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large)                    |
|-----------------|--------------------|---|
| 591(c) .....    | 50:941(b).         | July 30, 1956, ch. 789, § 4(a), 70 Stat. 729. |

The words “Subject to section 946(a) of this title” are omitted, since that section is restated in subsection (a) of the revised section and is applicable to all reserve appointments. 50:941(b) (last 2 sentences) is omitted as covered by sections 510 and 591 of this title.