

(2) A charge may not be imposed on a veteran for transportation provided to the veteran under this section.

(Added Pub. L. 105-262, title VIII, §8121(a), Oct. 17, 1998, 112 Stat. 2332; amended Pub. L. 106-65, div. A, title X, §1066(a)(24), Oct. 5, 1999, 113 Stat. 771.)

#### Editorial Notes

##### AMENDMENTS

1999—Subsec. (b)(2). Pub. L. 106-65, §1066(a)(24)(A), struck out “, United States Code,” after “title 38”.

Subsec. (d). Pub. L. 106-65, §1066(a)(24)(B), struck out heading and text of subsec. (d). Text read as follows: “In this section:

“(1) The term ‘veteran’ has the meaning given that term in section 101(2) of title 38, United States Code.

“(2) The term ‘hospital care’ has the meaning given that term in section 1701(5) of title 38, United States Code.”

#### § 2641b. Space-available travel on Department of Defense aircraft: program authorized and eligible recipients

(a) **AUTHORITY TO ESTABLISH PROGRAM.**—(1) The Secretary of Defense may establish a program (in this section referred to as the “travel program”) to provide transportation on Department of Defense aircraft on a space-available basis to the categories of individuals eligible under subsection (c).

(2) If the Secretary makes a determination to establish the travel program, the Secretary shall prescribe regulations for the operation of the travel program not later than one year after the date on which the determination was made. The regulations shall take effect on that date or such earlier date as the Secretary shall specify in the regulations.

(3) Not later than 30 days after making the determination to establish the travel program, the Secretary shall submit to the congressional defense committees an initial implementation report describing—

(A) the basis for the determination;

(B) any additional categories of individuals to be eligible for the travel program under subsection (c)(6);

(C) how the Secretary will ensure that the travel program is established and operated in compliance with the conditions specified in subsection (b); and

(D) the metrics by which the Secretary will monitor the travel program to determine the efficient and effective execution of the travel program.

(b) **CONDITIONS ON ESTABLISHMENT AND OPERATION.**—(1) The Secretary of Defense shall operate the travel program in a budget-neutral manner.

(2) No additional funds may be used, or flight hours performed, for the purpose of providing transportation under the travel program.

(c) **ELIGIBLE INDIVIDUALS.**—Subject to subsection (d), the Secretary of Defense shall provide transportation under the travel program (if established) to the following categories of individuals:

(1) Members of the armed forces on active duty.

(2) Members of the Selected Reserve who hold a valid Uniformed Services Identification and Privilege Card.

(3) Retired members of a regular or reserve component of the armed forces, including retired members of reserve components who, but for being under the eligibility age applicable under section 12731 of this title, would be eligible for retired pay under chapter 1223 of this title.

(4) Subject to subsection (f), veterans with a permanent service-connected disability rated as total.

(5) Such categories of dependents of individuals described in paragraphs (1) through (3) as the Secretary shall specify in the regulations under subsection (a), under such conditions and circumstances as the Secretary shall specify in such regulations.

(6) Such other categories of individuals as the Secretary, in the discretion of the Secretary, considers appropriate.

(d) **PRIORITIES AND RESTRICTIONS.**—In operating the travel program, the Secretary of Defense shall—

(1) in the sole discretion of the Secretary, establish an order of priority for transportation under the travel program for categories of eligible individuals that is based on considerations of military necessity, humanitarian concerns, and enhancement of morale;

(2) give priority in consideration of transportation under the travel program to the demands of members of the armed forces in the regular components and in the reserve components on active duty and to the need to provide such members, and their dependents, a means of respite from such demands; and

(3) implement policies aimed at ensuring cost control (as required by subsection (b)) and the safety, security, and efficient processing of travelers, including limiting the benefit under the travel program to one or more categories of otherwise eligible individuals if considered necessary by the Secretary.

(e) **SPECIAL PRIORITY FOR RETIRED MEMBERS RESIDING IN COMMONWEALTHS AND POSSESSIONS OF THE UNITED STATES WHO NEED CERTAIN HEALTH CARE SERVICES.**—(1) Notwithstanding subsection (d)(1), in establishing space-available transportation priorities under the travel program, the Secretary of Defense shall provide transportation for an individual described in paragraph (2), and a single dependent of the individual if needed to accompany the individual, at a priority level in the same category as the priority level for an unaccompanied dependent over the age of 18 traveling on environmental and morale leave.

(2) Subject to paragraph (3), paragraph (1) applies with respect to an individual described in subsection (c)(3) who—

(A) resides in or is located in a Commonwealth or possession of the United States; and

(B) is referred by a military or civilian primary care provider located in that Commonwealth or possession to a specialty care provider for services to be provided outside of that Commonwealth or possession.

(3) If an individual described in subsection (c)(3) is a retired member of a reserve compo-

ment who is ineligible for retired pay under chapter 1223 of this title by reason of being under the eligibility age applicable under section 12731 of this title, paragraph (1) applies to the individual only if the individual is also enrolled in the TRICARE program for certain members of the Retired Reserve authorized under section 1076e of this title.

(4) The priority for space-available transportation required by this subsection applies with respect to both—

(A) the travel from the Commonwealth or possession of the United States to receive the specialty care services; and

(B) the return travel.

(5) The requirement to provide transportation on Department of Defense aircraft on a space-available basis on the priority basis described in paragraph (1) to individuals covered by this subsection applies whether or not the travel program is established under this section.

(6) In this subsection, the terms “primary care provider” and “specialty care provider” refer to a medical or dental professional who provides health care services under chapter 55 of this title.

(f) VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL.—(1) Travel may not be provided under this section to a veteran eligible for travel pursuant to subsection (c)(4) in priority over any member eligible for travel under subsection (c)(1) or any dependent of such a member eligible for travel under this section.

(2) The authority in subsection (c)(4) may not be construed as affecting or in any way imposing on the Department of Defense, any armed force, or any commercial company with which they contract an obligation or expectation that they will retrofit or alter, in any way, military aircraft or commercial aircraft, or related equipment or facilities, used or leased by the Department or such armed force to accommodate passengers provided travel under such authority on account of disability.

(3) The authority in subsection (c)(4) may not be construed as preempting the authority of a flight commander to determine who boards the aircraft and any other matters in connection with safe operation of the aircraft.

(g) CONSTRUCTION.—The authority to provide transportation under the travel program is in addition to any other authority under law to provide transportation on Department of Defense aircraft on a space-available basis.

(Added Pub. L. 110–181, div. A, title III, §374(a), Jan. 28, 2008, 122 Stat. 82; amended Pub. L. 112–239, div. A, title VI, §622(a), Jan. 2, 2013, 126 Stat. 1779; Pub. L. 115–232, div. A, title VI, §624, Aug. 13, 2018, 132 Stat. 1801; Pub. L. 116–283, div. A, title X, §1081(a)(43), Jan. 1, 2021, 134 Stat. 3873.)

### Editorial Notes

#### AMENDMENTS

2021—Subsec. (a)(3)(B). Pub. L. 116–283 substituted “subsection (c)(6)” for “subsection (c)(5)”.

2018—Subsec. (c)(4) to (6). Pub. L. 115–232, §624(a), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsecs. (f), (g). Pub. L. 115–232, §624(b), added subsec. (f) and redesignated former subsec. (f) as (g).

2013—Pub. L. 112–239 amended section generally. Prior to amendment, section related to increased priority for space-available transportation on Department of Defense aircraft for certain members and former members of the uniformed services.

### Statutory Notes and Related Subsidiaries

#### STUDY ON SPACE-AVAILABLE TRAVEL SYSTEM OF THE DEPARTMENT OF DEFENSE

Pub. L. 114–328, div. A, title III, §352, Dec. 23, 2016, 130 Stat. 2089, provided that:

“(a) STUDY REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall seek to enter into a contract with a federally funded research and development center to conduct an independent study on the space-available travel system of the Department of Defense.

“(b) REPORT REQUIRED.—Not later than 180 days after entering into a contract with a federally funded research and development center under subsection (a), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report summarizing the results of the study conducted under such subsection.

“(c) ELEMENTS.—The report under subsection (b) shall include, with respect to the space-available travel system, the following:

“(1) A determination of—

“(A) the capacity of the system as of the date of the enactment of this Act [Dec. 23, 2016];

“(B) the projected capacity of the system for the 10-year period following such date of enactment; and

“(C) the projected number of reserve retirees, active duty retirees, and dependents of such retirees that will exist by the end of such 10-year period.

“(2) Estimates of system capacity based [on] the projections described in paragraph (1).

“(3) A discussion of the efficiency of the system and data regarding the use of available space with respect to each category of passengers eligible for space-available travel under existing regulations.

“(4) A description of the effect on system capacity if eligibility for space-available travel is extended to—

“(A) drilling reserve component personnel and dependents of such personnel on international flights;

“(B) dependents of reserve component retirees who are less than 60 years of age;

“(C) retirees who are less than 60 years of age on international flights;

“(D) drilling reserve component personnel traveling to drilling locations; and

“(E) members or former members of the Armed Forces who have a disability rated as total, if space-available travel is provided to such members on the same basis as such travel is provided to members of the Armed Forces entitled to retired or retainer pay.

“(5) A discussion of logistical and management problems, including congestion at terminals, waiting times, lodging availability, and personal hardships experienced by travelers.

“(6) An evaluation of the cost of the system and whether space-available travel is and can remain cost-neutral.

“(7) An evaluation of the feasibility of expanding the categories of passengers eligible for space-available travel to include—

“(A) in the case of overseas travel, retired members of an active or reserve component, including retired members of reserve components, who, but for being under the eligibility age applicable to the member under section 12731 of title 10, United States Code, would be eligible for retired pay under chapter 1223 of such title;

“(B) unremarried widows and widowers of active or reserve component members of the Armed Forces; and

“(C) members or former members of the Armed Forces who have a disability rated as total, if space-available travel is provided to such members on the same basis as such travel is provided to members of the Armed Forces entitled to retired or retainer pay.

“(8) Such other factors relating to the efficiency and cost of the system as the Secretary determines to be appropriate.

“(d) ADDITIONAL RESPONSIBILITIES.—In addition to carrying out subsections (a) through (c), the Secretary of Defense shall—

“(1) analyze the methods used to prioritize among the categories of individuals eligible for space-available travel and make recommendations for—

“(A) re-ordering the priority of such categories; and

“(B) adding additional categories of eligible individuals; and

“(2) collect data on travelers who request but do not obtain available travel spaces under the space-available travel system.

“(e) DISABILITY RATED AS TOTAL DEFINED.—In this section, the term ‘disability rated as total’ has the meaning given the term in section 1414(e)(3) of title 10, United States Code.”

**§ 2642. Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate**

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military transportation services provided by a component of the Department of Defense as follows:

(1) For military transportation services provided to the Central Intelligence Agency, if the Secretary of Defense determines that those military transportation services are provided for activities related to national security objectives.

(2) For military transportation services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet requirements of the Department of State for armored motor vehicles associated with the overseas travel of the Secretary of State in that country.

(3) For military transportation services provided to any element of the Federal Government outside the Department of Defense in circumstances other than those specified in paragraphs (1) and (2), but only if the Secretary of Defense determines that the provision of such services will promote the improved use of transportation capacity without any negative effect on the national security objectives or the national security interests contained within the United States commercial transportation industry.

(4) For military transportation services provided in support of foreign military sales.

(5) For military transportation services provided to a State, local, or tribal agency (including any organization composed of State, local, or tribal agencies).

(6) For military transportation services provided to a Department of Defense contractor when transporting supplies that are for, or destined for, a Department of Defense entity.

(b) TERMINATION OF AUTHORITY FOR CERTAIN CATEGORIES OF TRANSPORTATION.—The provi-

sions of paragraphs (3), (4), (5), and (6) of subsection (a) shall apply only to military transportation services provided before October 1, 2024.

(c) DEFINITION.—In this section, the term “Department of Defense reimbursement rate” means the amount charged a component of the Department of Defense by another component of the Department of Defense.

(Added Pub. L. 102-88, title V, § 501(a), Aug. 14, 1991, 105 Stat. 435; amended Pub. L. 108-136, div. A, title X, § 1006(a), (b)(1), Nov. 24, 2003, 117 Stat. 1585; Pub. L. 111-84, div. A, title III, § 351(a), Oct. 28, 2009, 123 Stat. 2262; Pub. L. 111-383, div. A, title X, § 1075(b)(40), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 113-66, div. A, title X, § 1073(a), (b), Dec. 26, 2013, 127 Stat. 869; Pub. L. 113-291, div. A, title X, §§ 1044(a)-(c)(1), 1071(f)(22), (g)(4), Dec. 19, 2014, 128 Stat. 3493, 3494, 3511; Pub. L. 115-91, div. A, title X, § 1081(f), Dec. 12, 2017, 131 Stat. 1601; Pub. L. 116-92, div. A, title III, § 373, Dec. 20, 2019, 133 Stat. 1332.)

**Editorial Notes**

AMENDMENTS

2019—Subsec. (b). Pub. L. 116-92 substituted “October 1, 2024” for “October 1, 2019”.

2017—Subsec. (a)(3). Pub. L. 115-91, § 1081(f), which directed substitution of “September 30” for “October 28” in the amendment made by Pub. L. 113-291, § 1044(a)(2)(A), was executed by making the substitution the second place appearing in the quoted language to be stricken by that amendment, to reflect the probable intent of Congress. See 2014 Amendment note below.

2014—Pub. L. 113-291, § 1044(c)(1), amended section catchline generally, substituting “Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate” for “Transportation services provided to certain other agencies: use of Department of Defense reimbursement rate”.

Subsec. (a). Pub. L. 113-291, § 1044(a)(1), substituted “Subject to subsection (b), the Secretary” for “The Secretary” in introductory provisions.

Subsec. (a)(3). Pub. L. 113-291, § 1071(g)(4), amended Pub. L. 113-66, § 1073(a)(2)(B). See 2013 Amendment note below.

Pub. L. 113-291, § 1071(f)(22), inserted “and” before “military transportation services provided in support”. Amendment was executed prior to amendment by Pub. L. 113-291, § 1044(a)(2)(B), see below, pursuant to section 1071(k) of Pub. L. 113-291, set out as a note under section 101 of this title.

Pub. L. 113-291, § 1044(a)(2)(B), substituted “Department of Defense” for “Department of Defense and military transportation services provided in support of foreign military sales”.

Pub. L. 113-291, § 1044(a)(2)(A), as amended by Pub. L. 115-91, § 1081(f), substituted “For” for “During the period beginning on October 28, 2009, and ending on September 30, 2019, for”. See 2017 Amendment note above.

Subsec. (a)(4) to (6). Pub. L. 113-291, § 1044(a)(3), added pars. (4) to (6).

Subsecs. (b), (c). Pub. L. 113-291, § 1044(b), added subsec. (b) and redesignated former subsec. (b) as (c).

2013—Pub. L. 113-66, § 1073(b), substituted “Transportation” for “Airlift” in section catchline.

Subsec. (a). Pub. L. 113-66, § 1073(a)(1), substituted “transportation services” for “airlift services” wherever appearing and “transportation capacity” for “airlift capacity” in par. (3).

Subsec. (a)(3). Pub. L. 113-66, § 1073(a)(2)(B), as amended by Pub. L. 113-291, § 1071(g)(4), inserted “military transportation services provided in support of foreign military sales” after “Department of Defense”.

Pub. L. 113-66, § 1073(a)(2)(A), (C), substituted “September 30, 2019” for “October 28, 2014” and “transportation industry” for “air industry”.