

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-364 struck out “while so serving” after “reserve grade” in section catchline and substituted “holds the reserve grade of major general or rear admiral, as appropriate” for “who holds a reserve grade lower than major general or rear admiral shall hold the reserve grade of major general or rear admiral, as appropriate, if appointed to that grade by the President, by and with the advice and consent of the Senate” in text.

1996—Pub. L. 104-106 substituted “Congress: reserve grade while so serving” for “Congress” in section catchline.

1994—Pub. L. 103-337 renumbered section 600a of this title as this section.

Statutory Notes and Related Subsidiaries

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

Pub. L. 99-661, div. A, title V, § 508(f), Nov. 14, 1986, 100 Stat. 3868, provided that: “The amendments made by this section [enacting this section and amending sections 1374, 4335, 5149, and 9335 of this title] shall apply only with respect to appointments or details made on or after the date of the enactment of this Act [Nov. 14, 1986].”

§ 12211. Officers: Army National Guard of the United States

(a) Upon being federally recognized, an officer of the Army National Guard shall be appointed as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard. However, an officer of the Army Reserve who is federally recognized as an officer of the Army National Guard becomes an officer of the Army National Guard of the United States and ceases to be an officer of the Army Reserve. The acceptance of an appointment as a Reserve for service as a member of the Army National Guard of the United States by an officer of the Army National Guard does not vacate his office in the Army National Guard.

(b) When an officer of the Army National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Army National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Army National Guard of the United States is ordered to active duty, any officer of the Army National Guard who is not a Reserve of the Army may be appointed by the President as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 193, § 3351; renumbered § 12211, Pub. L. 103-337, div. A, title XVI, § 1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 104-106, div. A, title XV, § 1501(b)(13)(A), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3351(a)	50:1113 (less (a)).	July 9, 1952, ch. 608, §§ 703 (less (a)), 704 (2d sentence), 705(a) (last 39 words), 713 (less (a)), 66 Stat. 502-504.
3351(b)	50:1115(a) (last 39 words).	
3351(c)	50:1114 (2d sentence).	
	50:1123 (less (a)).	

In subsection (a), the words “as a Reserve” are substituted for the words “as Reserve officers of the appropriate Armed Force of the United States” and “as a Reserve officer of the Armed Force of the United States concerned”, in 50:1113(b). The words “federally recognized appointments” and “in the same grade and branch”, in 50:1113(b), are omitted as surplusage. The words “those officers who do not hold appointments as Reserve officers of the appropriate Armed Force of the United States”, in 50:1113(b), are omitted as covered by the second sentence of the revised subsection.

In subsection (c), the words “active duty” are substituted for the words “active military service of the United States”. The words “and branch” are omitted as surplusage. The words “of the Army National Guard of the United States” are inserted for clarity.

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-106 inserted “the” after “National Guard of” in section catchline.

1994—Pub. L. 103-337 renumbered section 3351 of this title as this section.

Statutory Notes and Related Subsidiaries

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.

§ 12212. Officers: Air National Guard of the United States

(a) Upon being federally recognized, an officer of the Air National Guard shall be appointed as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard. However, an officer of the Air Force Reserve who is federally recognized as an officer of the Air National Guard becomes an officer of the Air National Guard of the United States and ceases to be an officer of the Air Force Reserve. The acceptance of an appointment as a Reserve for service as a member of the Air National Guard of the United States by an officer of the Air National Guard does not vacate his office in the Air National Guard.

(b) When an officer of the Air National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Air National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Air National Guard of the United States is ordered to active duty, any officer of the Air National Guard who is not a Reserve of the Air Force may be appointed by the President as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 519, §8351; renumbered §12212, Pub. L. 103-337, div. A, title XVI, §1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 104-106, div. A, title XV, §1501(b)(13)(A), Feb. 10, 1996, 110 Stat. 496.)

XV, §1501(b)(13)(A), (14), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES
1956 ACT

HISTORICAL AND REVISION NOTES		
Revised section	Source (U.S. Code)	Source (Statutes at Large)
8351(a)	50:1113 (less (a)).	July 9, 1952, ch. 608, §§703
8351(b)	50:1115(a) (last 39 words).	(less (a)), 704 (2d sentence), 705(a) (last 39 words), 713 (less (a)), 66 Stat. 502-504.
8351(c)	50:1114 (2d sentence).	
	50:1123 (less (a)).	

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3352(a)	50:1116 (less last 15 words of 1st sentence, and less applicability to enlistments).	July 9, 1952, ch. 608, §§706 (less last 15 words of 1st sentence, and less applicability to enlistments), 707 (less applicability to enlistments), 66 Stat. 503.
3352(b)	50:1117 (less applicability to enlistments).	

In subsection (a), the words “as a Reserve” are substituted for the words “as Reserve officers of the appropriate Armed Force of the United States” and “as a Reserve officer of the Armed Force of the United States concerned” in 50:1113(b). The words “federally recognized appointments” and “in the same grade and branch”, in 50:1113(b), are omitted as surplusage. The words “those officers who do not hold appointments as reserve officers of the appropriate Armed Force of the United States”, in 50:1113(b), are omitted as covered by the second sentence of the revised subsection.

In subsection (a), the words “at any time”, “of any person”, and “from the National Guard of the United States or from the Air National Guard of the United States” are omitted as surplusage. The words “highest regular or reserve grade ever held by him in the Army” are substituted for the words “highest permanent grade previously held in the Army or any component thereof”, since “permanent” grades are held only in a component and there are no “non-permanent” grades held in a component.

In subsection (c), the words “active duty” are substituted for the words “active military service of the United States”. The words “and branch” are omitted as surplusage. The words “of the Air National Guard of the United States” are inserted for clarity.

In subsection (b), the words “appointment as a Reserve” are substituted for the words “appointment or * * * as a Reserve officer or”. The words “whose Federal recognition as a member * * * is withdrawn” are substituted for the words “ceases to hold a status as a federally recognized member”.

Editorial Notes

1958 ACT

AMENDMENTS

1996—Pub. L. 104-106 inserted “the” after “National Guard of” in section catchline.

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3352(a)	50:1254.	Sept. 3, 1954, ch. 1257, §322, 68 Stat. 1161.

1994—Pub. L. 103-337 renumbered section 8351 of this title as this section.

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Statutory Notes and Related Subsidiaries

AMENDMENTS

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.

1996—Pub. L. 104-106, §1501(b)(13)(A), inserted “the” after “National Guard of” in section catchline.

§ 12213. Officers; Army Reserve: transfer from Army National Guard of the United States

Subsec. (a). Pub. L. 104-106, §1501(b)(14), substituted “section 12203” for “section 593” in last sentence.

(a) Under such regulations as the Secretary of the Army may prescribe, and with the consent of the governor or other appropriate authority of the State concerned, an officer of the Army National Guard of the United States may be transferred in grade to the Army Reserve.

1994—Pub. L. 103-337, §1662(c)(3), renumbered section 3352 of this title as this section.

(b) Unless discharged from his appointment as a Reserve, an officer of the Army National Guard of the United States whose Federal recognition as a member of the Army National Guard is withdrawn becomes a member of the Army Reserve. An officer who so becomes a member of the Army Reserve ceases to be a member of the Army National Guard of the United States.

Subsec. (a). Pub. L. 103-337, §1675(b), struck out “or Territory, Puerto Rico, or the District of Columbia, whichever is” after “authority of the State”.

(Aug. 10, 1956, ch. 1041, 70A Stat. 194, §3352; Pub. L. 85-861, §1(80)(A), Sept. 2, 1958, 72 Stat. 1468; Pub. L. 86-559, §1(7), June 30, 1960, 74 Stat. 265; Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12213 and amended Pub. L. 103-337, div. A, title XVI, §§1636(a), 1662(c)(3), 1675(b)(2), Oct. 5, 1994, 108 Stat. 2968, 2990, 3017; Pub. L. 104-106, div. A, title

Pub. L. 103-337, §1636(a), struck out at end “Notwithstanding any other provision of this chapter or section 12203 of this title, an officer who is transferred under this section shall be advanced to the highest temporary, regular, or reserve grade ever held by him in the Army, unless the Secretary determines that it is not in the best interests of the service.”

1988—Subsec. (a). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

1960—Subsec. (a). Pub. L. 86-559 authorized officers transferred under this section to be advanced to the highest temporary grade ever held in the Army.

1958—Subsec. (a). Pub. L. 85-861 substituted “Notwithstanding any other provision of this chapter or section 593 of this title, an officer who is transferred under this section shall be advanced to the highest regular or reserve grade ever held by him in the Army, unless the Secretary determines that it is not in the best interests of the service” for “Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if his service has been honorable”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title