

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
681(a)	50:967(a).	July 9, 1952, ch. 608, §239,
681(b)	50:967 (less (a)).	66 Stat. 492.

In subsection (a), the word “title” is substituted for the word “chapter”. The provisions of this title relating to active duty of Reserves are based on the Armed Forces Reserve Act of 1952. The words “under his jurisdiction” are inserted for clarity. The words “or active duty for training” are omitted as covered by the words “active duty”.

Subsection (b) is substituted for 50:967(b). Clause (3) is inserted, since other provisions of law are necessarily exceptions to the general rule here stated.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 681 of this title as this section.

§ 12314. Reserves: kinds of duty

Notwithstanding any other provision of law, a member of a reserve component who is on active duty other than for training may, under regulations prescribed by the Secretary concerned, be detailed or assigned to any duty authorized by law for members of the regular component of the armed force concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, §682; renumbered §12314, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
682	50:965.	July 9, 1952, ch. 608, §237,
		66 Stat. 492.

The words “armed force concerned” are substituted for the words “Armed Forces of the United States”. The words “now or hereafter” and “officers and enlisted” are omitted as surplusage. The words “other than for training” are inserted, since the words “active duty” were defined in the source statute cited above to exclude active duty for training.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 682 of this title as this section.

§ 12315. Reserves: duty with or without pay

(a) Subject to other provisions of this title, any Reserve may be ordered to active duty or other duty—

- (1) with the pay and allowances provided by law; or
- (2) with his consent, without pay.

Duty without pay shall be considered for all purposes as if it were duty with pay.

(b) A Reserve who is kept on active duty after his term of service expires is entitled to pay and allowances while on that duty, except as they may be forfeited under the approved sentence of a court-martial or by non-judicial punishment by a commanding officer or when he is otherwise in a non-pay status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, §683; renumbered §12315, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
683(a)	50:971.	July 9, 1952, ch. 608,
683(b)	50:972.	§§240, 241, 66 Stat. 492.

In subsection (a), the word “title” is substituted for the word “chapter”. The provisions of this title relating to active duty of reservists are based on the Armed Forces Reserve Act of 1952. The words “shall be considered * * * as if it were” are substituted for the words “shall be counted * * * the same as like”.

In subsections (a) and (b), the words “active duty for training” are omitted as covered by the words “active duty”.

In subsection (b), the word “kept” is substituted for the words “retained or continued”. The words “pursuant to law” are omitted as surplusage.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 683 of this title as this section.

§ 12316. Payment of certain Reserves while on duty

(a) Except as provided by subsection (c), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of the Reserve’s earlier military service is entitled to retired or retainer pay, and who performs duty for which the Reserve is entitled to compensation, may elect to receive for that duty either—

- (1) the pay and allowances authorized by law for the duty that the Reserve is performing; or
- (2) if the Reserve specifically waives those payments, the retired or retainer pay to which the Reserve is entitled because of the Reserve’s earlier military service.

(b) Except as provided by subsection (c), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of the Reserve’s earlier military service is entitled to a pension or disability compensation, and who performs duty for which the Reserve is entitled to compensation, may elect to receive for that duty either—

- (1) the pension or disability compensation to which the Reserve is entitled because of the Reserve’s earlier military service; or
- (2) if the Reserve specifically waives those payments, the pay and allowances authorized by law for the duty that the Reserve is performing.

(c) Unless the payments because of a Reserve’s earlier military service are greater than the compensation prescribed by subsection (a)(1) or (b)(2), as applicable, a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of the Reserve’s earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to perform that duty, ceases to be entitled to the payments because of the Reserve’s earlier military service until the period of active duty ends. While on that active duty, the Reserve is entitled to the compensation prescribed by sub-

section (a)(1) or (b)(2), as applicable. Other rights and benefits of the Reserve or the Reserve's dependents are unaffected by this subsection.

(d) The Secretary of Defense shall prescribe regulations under which a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard may waive the pay and allowances authorized by law for the duty the Reserve is performing under subsection (a)(2) or (b)(2).

(Added Pub. L. 85-861, §1(15), Sept. 2, 1958, 72 Stat. 1441, §684; amended Pub. L. 93-586, §1, Jan. 2, 1975, 88 Stat. 1920; renumbered §12316, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992; Pub. L. 116-283, div. A, title VI, §621(a)-(d), Jan. 1, 2021, 134 Stat. 3675, 3676.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
684(a)	10 App.:369b (less proviso and last 3 sentences). 34 App.:853e-1 (less provisos and last 3 sentences).	Aug. 2, 1946, ch. 756, §10; restated Sept. 27, 1950, ch. 1053, §1, 64 Stat. 1067; July 12, 1955, ch. 337, §§1, 4, 69 Stat. 300, 301.
684(b)	10 App.:369b (proviso and last 3 sentences). 34 App.:853e-1 (provisos and last 3 sentences).	Sept. 27, 1950, ch. 1053, §2, 64 Stat. 1067; July 12, 1955, ch. 337, §§2, 4, 69 Stat. 301.

In subsections (a) and (b), the words "retirement pay" are omitted as covered by the words "retired pay".

In subsection (a), the words "Except as provided by subsection (b)" are inserted for clarity. The words "who performs duty for which he is entitled to compensation, may elect to receive for that duty" are substituted for the words "may elect, with reference to periods of active duty, active duty for training, drill, training, instruction, or other duty for which they may be entitled to receive compensation pursuant to any provisions of law". The words "Notwithstanding the provisions of any other law", in 10 App.:369b, and "or relinquish" are omitted as surplusage.

Subsection (a)(1) is substituted for clause (2) of 10 App.:369b, and clause (2) of 34 App.:853e-1.

In subsection (a)(2), the words "pay and allowances authorized by law for the duty that he is performing" are substituted for clause (1) of 10 App.:369b and 34 App.:853e-1.

In subsection (b), the word "extended", the next to the last sentence of 10 App.: 369b and of 34 App.: 853e-1, and the first proviso of 34 App.:853e-1, are omitted as surplusage.

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, §621(a)(1), in introductory provisions, substituted "subsection (c)" for "subsection (b)", "the Reserve's earlier military service" for "his earlier military service", "retired or retainer pay" for "a pension, retired or retainer pay, or disability compensation", and "the Reserve is entitled" for "he is entitled".

Subsec. (a)(1), (2). Pub. L. 116-283, §621(a)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) the payments to which he is entitled because of his earlier military service; or

"(2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing."

Subsec. (b). Pub. L. 116-283, §621(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116-283, §621(b)(1), (c), redesignated subsec. (b) as (c) and substituted "(a)(1) or (b)(2),

as applicable," for "(a)(2)" in two places, "a Reserve's earlier military service are greater" for "his earlier military service are greater", "the Reserve's earlier military service" for "his earlier military service" in two places, "the Reserve is entitled" for "he is entitled", and "the Reserve or the Reserve's dependents" for "the member or his dependents".

Subsec. (d). Pub. L. 116-283, §621(d), added subsec. (d). 1994—Pub. L. 103-337 renumbered section 684 of this title as this section.

1975—Subsecs. (a), (b). Pub. L. 93-586 inserted reference to Coast Guard.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title VI, §621(e), Jan. 1, 2021, 134 Stat. 3676, provided that: "The amendments made by this section [amending this section] shall take effect 180 days after the date of the enactment of this Act [Jan. 1, 2021]."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 12317. Reserves: theological students; limitations

A Reserve may not be required to serve on active duty, or to participate in inactive duty training, while preparing for the ministry in a recognized theological or divinity school.

(Added Pub. L. 85-861, §1(15), Sept. 2, 1958, 72 Stat. 1441, §685; renumbered §12317, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
686	50:961(h) (last sentence).	Aug. 9, 1955, ch. 665, §2(g) (last sentence), 69 Stat. 599.

The words "active training and service, active duty for training" are omitted as covered by the words "active duty" as defined in section 101(22) of this title.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 685 of this title as this section.

§ 12318. Reserves on active duty: duties; funding

(a) During a period that members of a reserve component are serving on active duty pursuant to an order under section 12302 or 12304 of this title, members of reserve components serving on active duty may perform duties in connection with either such section.

(b) Funds available for the pay and allowances of Reserves referred to section 12310 of this title shall be available for the pay and allowances of such Reserves who perform duties in connection with section 12302 or 12304 of this title under the authority of subsection (a).