

Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(b) **LIMITATION.**—The Auxiliary may conduct a patrol of a waterway, or a portion thereof, only if—

(1) the Commandant has determined such waterway, or portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard; or

(2) a State or other proper authority has requested such patrol pursuant to section 701 of this title or section 13109 of title 46.

(Aug. 4, 1949, ch. 393, 63 Stat. 555, § 822; Pub. L. 104-324, title IV, § 402(a), Oct. 19, 1996, 110 Stat. 3923; Pub. L. 114-120, title II, § 205(a), Feb. 8, 2016, 130 Stat. 36; renumbered § 3902 and amended Pub. L. 115-282, title I, §§ 119(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4236, 4240.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 261 (Feb. 19, 1941, ch. 8, title I, § 2, 55 Stat. 9; Sept. 30, 1944, ch. 453, § 1, 58 Stat. 759).

Changes were made in phraseology. 81st Congress, House Report No. 557.

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-282, § 119(b), renumbered section 822 of this title as this section.

Subsec. (b)(2). Pub. L. 115-282, § 123(b)(2), substituted “section 701” for “section 141”.

2016—Pub. L. 114-120 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1996—Pub. L. 104-324 inserted “of the Coast Guard Auxiliary” after “Purpose” in section catchline and amended text generally. Prior to amendment, text read as follows: “The purpose of the Auxiliary is to assist the Coast Guard:

“(a) to promote safety and to effect rescues on and over the high seas and on navigable waters;

“(b) to promote efficiency in the operation of motorboats and yachts;

“(c) to foster a wider knowledge of, and better compliance with, the laws, rules, and regulations governing the operation of motorboats and yachts; and

“(d) to facilitate other operations of the Coast Guard.”

#### § 3903. Eligibility; enrollments

The Auxiliary shall be composed of nationals of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), and aliens lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))—

(1) who—

(A) are owners, sole or part, of motorboats, yachts, aircraft, or radio stations; or

(B) by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary; and

(2) who may be enrolled therein pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555, § 823; Pub. L. 112-213, title II, § 215(a), Dec. 20, 2012, 126 Stat. 1555; renumbered § 3903, Pub. L. 115-282, title I, § 119(b), Dec. 4, 2018, 132 Stat. 4236.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 262, 351 (Feb. 19, 1941, ch. 8, title I, § 3, title III, § 301, 55 Stat. 9, 13; Oct.

26, 1942, ch. 628, 56 Stat. 990; Sept. 30, 1944, ch. 453, § 2, 58 Stat. 760).

All reference to the Philippine Islands is eliminated. Changes were made in phraseology. 81st Congress, House Report No. 557.

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-282 renumbered section 823 of this title as this section.

2012—Pub. L. 112-213 amended section generally. Prior to amendment, text read as follows: “The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations or who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.”

#### § 3904. Members of the Auxiliary; status

(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) Chapter 171 of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(7) Compensation for work injuries under chapter 81 of title 5.

(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).<sup>1</sup>

(9) Section 651 of Public Law 104-208.

(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.

(Added Pub. L. 104-324, title IV, § 403(a), Oct. 19, 1996, 110 Stat. 3923, § 823a; amended Pub. L. 107-295, title IV, § 415, Nov. 25, 2002, 116 Stat. 2121; Pub. L. 109-304, § 17(c), Oct. 6, 2006, 120 Stat. 1707; Pub. L. 114-120, title II, § 209(15), Feb. 8, 2016, 130

<sup>1</sup> See References in Text note below.