

pensation, and Liability Act (42 U.S.C. 9607) for the Secretary's response actions at current and former Coast Guard facilities shall be credited to the account.

(Added Pub. L. 101-225, title II, §222(a), Dec. 12, 1989, 103 Stat. 1918.)

§ 693. Annual Report to Congress

(a) The Secretary shall submit to Congress a report each fiscal year describing the progress the Secretary has made during the preceding fiscal year in implementing this chapter.

(b) Each report shall include:

(1) A statement for each facility or vessel for which the Secretary is responsible under section 691(c) of this title where a release of a hazardous substance or pollutant has been identified.

(2) The status of response actions contemplated or undertaken at each facility.

(3) The specific cost estimates and budgetary proposals for response actions contemplated or undertaken at each facility.

(4) The total amount required to clean up contamination at all identified facilities.

(Added Pub. L. 101-225, title II, §222(a), Dec. 12, 1989, 103 Stat. 1918.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 133 of House Document No. 103-7.

PART II—COAST GUARD RESERVE AND AUXILIARY

Table with 2 columns: Chap. and Sec. listing Coast Guard Reserve, Coast Guard Auxiliary, and General Provisions for Coast Guard Reserve and Auxiliary.

AMENDMENTS

1986—Pub. L. 99-640, §10(a)(2), Nov. 10, 1986, 100 Stat. 3549, substituted "701" for "751" in item for chapter 21.

1950—Act Aug. 3, 1950, ch. 536, §34, 64 Stat. 408, substituted "Sec." for "Page".

CHAPTER 21—COAST GUARD RESERVE

SUBCHAPTER A

GENERAL

Table with 2 columns: Sec. and description of sections 701 through 709a regarding organization, strength, boards, ratings, benefits, and reserve programs.

1 So in original. Does not conform to section catchline.

Table with 2 columns: 710-713 and descriptions of sections regarding appointment, exclusiveness of service, active duty, and enlistment.

SUBCHAPTER B

COMMISSIONED OFFICERS

Table with 2 columns: 720-746 and descriptions of sections regarding definitions, applicability, suspension, retirement, precedence, running mates, promotion, and recall.

AMENDMENTS

2002—Pub. L. 107-295, title IV, §413(b), Nov. 25, 2002, 116 Stat. 2120, added item 709a.

2000—Pub. L. 106-398, §1 [[div. A], title V, §502(b)(2)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-100, substituted "Establishment of promotion zones under running mate system" for "Placement in promotion zone; consideration for promotion" in item 731.

1985—Pub. L. 99-145, title V, §514(c)(3)(B), Nov. 8, 1985, 99 Stat. 629, substituted "rear admiral (lower half)" for "commodore" in item 743.

1983—Pub. L. 97-417, §2(17)(B), Jan. 4, 1983, 96 Stat. 2087, inserted "and commodore" after "Rear admiral" in item 743.

1982—Pub. L. 97-295, §2(22), Oct. 12, 1982, 96 Stat. 1303, inserted "previously removed from an active status" in item 733.

1981—Pub. L. 97-136, §6(c)(3), Dec. 29, 1981, 95 Stat. 1706, substituted "Exclusiveness of service" for "Exemption from military training and draft; exclusiveness of service" in item 711.

1980—Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002, revised analysis generally by adding items 701 to 713 and 720 to 746, and by omitting items 751 to 765, undesignated center heading "Commissioned Officers" following item 765, and items 770 to 798.

1974—Pub. L. 93-283, §1(14), May 14, 1974, 88 Stat. 141, added items 765 and 796 to 798.

2 So in original. Does not conform to section catchline.

1972—Pub. L. 92-479, §2, Oct. 9, 1972, 86 Stat. 795, added item 764.

1962—Pub. L. 87-704, §1(b), Sept. 27, 1962, 76 Stat. 633, added item 763.

Pub. L. 87-649, §7(d), Sept. 7, 1962, 76 Stat. 495, substituted “Benefits” for “Pay, allowances, and other benefits” in item 755.

1960—Pub. L. 86-559, §2(4), June 30, 1960, 74 Stat. 281, added item 787a.

1958—Pub. L. 85-861, §5(3), Sept. 2, 1958, 72 Stat. 1555, added heading “Commissioned Officers” and items 770 to 795.

1956—Act Aug. 10, 1956, ch. 1041, §§15(b), 16(b), 70A Stat. 625, 626, added items 751a, 752a, 753a, 758a, and 759a.

## SUBCHAPTER A

### GENERAL

#### § 701. Organization

The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1003.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 751a of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### WOMEN’S BRANCH OF THE COAST GUARD RESERVE

Pub. L. 93-174, §3, Dec. 5, 1973, 87 Stat. 692, provided that: “Effective upon enactment of this Act [Dec. 5, 1973], all members of the women’s branch of the Coast Guard Reserve who were serving on active or inactive duty on the day before enactment shall become members of the Coast Guard Reserve without loss of grade, rate, date of rank, or other benefits earned by their prior service.”

#### § 702. Authorized strength

(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the Reserve may not be reduced in grade because of the Secretary’s determination.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1003.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 752a of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### COAST GUARD RESERVE COMPONENTS TRANSITION INITIATIVES

Pub. L. 103-160, title V, §564(a), (b), Nov. 30, 1993, 107 Stat. 1669, 1670, provided that:

“(a) **APPLICABILITY OF CERTAIN BENEFITS.**—The Secretary of Transportation shall prescribe such regulations as necessary so as to apply to the members of the Coast Guard Reserve the provisions of subtitle B of title XLIV of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2712) [enacting section

1331a [now 12731a] of Title 10, Armed Forces, amending sections 1174a, 1175, and 2133 of Title 10 and section 3012 of Title 38, Veterans’ Benefits, and enacting provisions set out as a note under section 12681 of Title 10], including the amendments made by those provisions. For purposes of the application of any of such provisions to the Coast Guard Reserve, any reference in those provisions to the Secretary of Defense or Secretary of a military department shall be treated as referring to the Secretary of Transportation.

“(b) **REGULATIONS.**—Regulations prescribed for the purposes of this section shall to the extent practicable be identical to the regulations prescribed by the Secretary of Defense under those provisions.”

[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.]

#### § 703. Coast Guard Reserve Boards

(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters. At least one-half of the members of the Board shall be Reserve officers.

(b) The Secretary may convene any other Reserve Board the Secretary considers necessary.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1003.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 753a of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 704. Grades and ratings; military authority

The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation for the Coast Guard. A member of the Reserve on active duty or inactive-duty training has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1003.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 754 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 705. Benefits

(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is entitled to the same benefits as a member of the Navy Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the Regular Coast Guard.

(b) Chapter 13 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard.

(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Navy Reserve who suffers sickness, disease, disability, or death under similar conditions.

(d) A member of the Reserve on active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training) or when retired for disability is entitled to the benefits of chapter 55 of title 10.

(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Navy Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

(f) A member of the Coast Guard Reserve not on active duty who is enrolled in an officer candidate program authorized by section 12209 of title 10 leading to a commission in the Coast Guard Reserve, and is a full-time student in an accredited college curriculum leading to a bachelor's degree may be paid a subsistence allowance for each month of the member's academic year at the same rate as that prescribed by section 209(a) of title 37.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1003; amended Pub. L. 97-417, §1, Jan. 4, 1983, 96 Stat. 2085; Pub. L. 104-106, div. A, title XV, §1501(e)(1)(A), Feb. 10, 1996, 110 Stat. 501; Pub. L. 109-163, div. A, title V, §515(c), Jan. 6, 2006, 119 Stat. 3235.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 755 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

2006—Subsecs. (a), (c), (e). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

1996—Subsec. (f). Pub. L. 104-106 substituted “12209 of title 10” for “600 of title 10”.

1983—Subsec. (f). Pub. L. 97-417 added subsec. (f).

#### 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 Title 10, Armed Forces.

### § 706. Temporary members of the Reserve; eligibility and compensation

A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person's civilian position) who by reason

of special training and experience is considered by the Commandant to be qualified for duty, may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions the Commandant may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the Reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1004.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 756 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

### § 707. Temporary members of the Reserve; disability or death benefits

(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section. That law shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of the monthly equivalent of the minimum rate of basic pay in effect for grade GS-9 of the General Schedule on the date the injury is incurred.

(b) This section does not apply if the workmen's compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which

the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Regular Coast Guard.

(e) In administering section 8133 of title 5, for a person covered by this section—

(1) the percentages applicable to payments under that section are—

(A) 45 percent under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act (42 U.S.C. 401 et seq.), with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection;

(B) 20 percent under subsection (a)(3) of that section, for one child, and 10 percent additional for each additional child, not to exceed a total of 75 percent, where the member died fully or currently insured under title II of the Social Security Act; and

(C) 25 percent under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 percent to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(2) payments may not be made under subsection (a)(5) of that section; and

(3) the Secretary of Labor shall inform the Commissioner of Social Security whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5. The Commissioner of Social Security shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1004; amended Pub. L. 97-136, §8(a), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 97-295, §2(21), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 103-296, title I, §108(g), Aug. 15, 1994, 108 Stat. 1487.)

#### REFERENCES IN TEXT

The law authorizing compensation for employees of the United States, referred to in subsec. (a), appears in subchapter I (§8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5.

The Social Security Act, referred to in subsec. (e)(1)(A), (B), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 760 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

1994—Subsec. (e)(3). Pub. L. 103-296 substituted "Commissioner of Social Security" for "Secretary of Health and Human Services" in two places.

1982—Subsec. (e)(1). Pub. L. 97-295, §2(21)(A), substituted "percent" for "per centum" wherever appearing.

Subsec. (e)(1)(A). Pub. L. 97-295, §2(21)(B), inserted "(42 U.S.C. 401 et seq.)" after "Social Security Act".

1981—Subsec. (a). Pub. L. 97-136 substituted "monthly pay of the monthly equivalent of the minimum rate of basic pay in effect for grade GS-9 of the General Schedule on the date the injury is incurred" for "monthly pay of \$600".

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-136, §8(b), Dec. 29, 1981, 95 Stat. 1706, provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to payments for benefits under section 707(a) of title 14, United States Code, for months beginning on or after the date of the enactment of this Act [Dec. 29, 1981]."

#### § 708. Temporary members of the Reserve; certificate of honorable service

In recognition of the service of temporary members of the Reserve, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member. Issuance of a certificate of honorable service to any person under this section does not entitle that person to any rights, privileges, or benefits under any law of the United States.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1005.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 763 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade

(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for

two years may serve for an additional period of not more than two years.

(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1005.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 758a of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 709a. Reserve student pre-commissioning assistance program

(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

(1) a baccalaureate degree in not more than 5 academic years; or

(2) a post-baccalaureate degree.

(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

(B) enter into a written agreement with the Coast Guard described in paragraph (2).

(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

(B) to serve on active duty for up to five years; and

(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

(c) Expenses for which financial assistance may be provided under this section are the following:

(1) Tuition and fees charged by the institution of higher education involved.

(2) The cost of books.

(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(4) Such other expenses as are deemed appropriate by the Secretary.

(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.

(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

(f) A member who receives financial assistance under this section may be ordered to active duty

in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

(2) fails to complete the academic requirements of the institution of higher education involved; or

(3) fails to maintain eligibility for an original appointment as a commissioned officer.

(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is a debt owed to the United States.

(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

(h) As used in this section, the term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(Added Pub. L. 107-295, title IV, §413(a), Nov. 25, 2002, 116 Stat. 2119.)

#### § 710. Appointment or wartime promotion; retention of grade upon release from active duty

(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1006.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 759a of this title prior to the complete revision of this chapter by Pub. L. 96-322.

**§ 711. Exclusiveness of service**

No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military component shall, if ordered to active duty therein, be disenrolled as a temporary member of the Reserve.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1006; amended Pub. L. 97-136, §6(c)(1), (2), Dec. 29, 1981, 95 Stat. 1706.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 757 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

AMENDMENTS

1981—Pub. L. 97-136 struck out provision that a member of the Reserve, other than a temporary member, is exempt from registration and liability for military training and service under any other law, and substituted “Exclusiveness of service” for “Exemption from military training and draft; exclusiveness of service” in section catchline.

**§ 712. Active duty for emergency augmentation of regular forces**

(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a, or to aid in prevention of an imminent, serious natural or manmade disaster, accident, catastrophe, act of terrorism (as defined in section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))), or transportation security incident as defined in section 70101 of title 46, the Secretary may, without the consent of the member affected, order to active duty of not more than 60 days in any 4-month period and not more than 120 days in any 2-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.

(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

(c) Active duty served under this section—

(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 10147 of title 10;

(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

(3) entitles a member while engaged therein, or while engaged in authorized travel to or

from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other active duty.

(d) Reserve members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or under any other law.

(e) For purposes of calculating the duration of active duty allowed pursuant to subsection (a), each period of active duty shall begin on the first day that a member reports to active duty, including for purposes of training.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1006; amended Pub. L. 102-241, §13, Dec. 19, 1991, 105 Stat. 2213; Pub. L. 103-337, div. A, title XVI, §1677(b)(3), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 104-324, title II, §204, Oct. 19, 1996, 110 Stat. 3907; Pub. L. 109-241, title II, §206, July 11, 2006, 120 Stat. 521; Pub. L. 110-53, title V, §502(c)(2), Aug. 3, 2007, 121 Stat. 311.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 764 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-53 substituted “section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))” for “section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))”.

2006—Subsec. (a). Pub. L. 109-241, §206(1)–(4), substituted “during a, or to aid in prevention of an imminent,” for “during a”, “catastrophe, act of terrorism (as defined in section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))), or transportation security incident as defined in section 70101 of title 46,” for “or catastrophe,” “60 days in any 4-month period” for “thirty days in any four-month period”, and “120 days in any 2-year period” for “sixty days in any two-year period”.

Subsec. (e). Pub. L. 109-241, §206(5), added subsec. (e). 1996—Subsec. (d). Pub. L. 104-324 added subsec. (d).

1994—Subsec. (c)(1). Pub. L. 103-337 substituted “section 10147 of title 10” for “section 270 of title 10”.

1991—Subsec. (a). Pub. L. 102-241 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of the member affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

**§ 713. Enlistment of members engaged in schooling**

The initial period of active duty for training required by section 12103(d) of title 10, may be divided into two successive annual periods of not less than six weeks each, to permit the en-

listment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1007; amended Pub. L. 103-337, div. A, title XVI, §1677(b)(4), Oct. 5, 1994, 108 Stat. 3020.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 765 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

1994—Pub. L. 103-337 substituted “section 12103(d) of title 10” for “section 511(d) of title 10”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

### SUBCHAPTER B

#### COMMISSIONED OFFICERS

#### § 720. Definitions

As used in this subchapter—

(1) “Reserve officer” means a commissioned officer in the Reserve, except an officer excluded by section 721 of this title or a commissioned warrant officer; and

(2) “discharged” means released from an appointment as a Reserve officer.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1007.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 770 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 721. Applicability of this subchapter

This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1007.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 771 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 722. Suspension of this subchapter in time of war or national emergency

In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, the President shall by regulation, in so far as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1007.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 778 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### DELEGATION OF AUTHORITY

Authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

#### § 723. Effect of this subchapter on retirement and retired pay

Except as provided in subsection 746(b) of this title, nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer; or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1007.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 795 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 724. Authorized number of officers

(a) The authorized number of officers in the Reserve in an active status is 5,000. Reserve officers on an active-duty list shall not be counted as part of the authorized number of officers in the Reserve. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

(b)(1) The Secretary shall make, at least once each year, a computation to determine the number of Reserve officers in an active status authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving in an active status on the date the computation is made. The number of Reserve officers in an active status below the grade of rear admiral (lower half) shall be distributed by pay grade so as not to exceed percentages of commissioned officers authorized by section 42(b) of this title. When the actual number of Reserve officers in an active status in a particular pay grade is less than the maximum percentage authorized, the difference may be applied to the number in the next lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law.

(2) The authorized number of Reserve Officers in an active status not on active duty in the grades of rear admiral (lower half) and rear admiral is a total of two. However, the Secretary of the department in which the Coast Guard is operating may authorize an additional number of Reserve officers not on active duty in the grades of rear admiral (lower half) and rear admiral as necessary in order to meet planned mobilization requirements.

(c) DEFERRAL OF LIMITATION.—If at the end of any fiscal year there is in effect a declaration of

war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1007; amended Pub. L. 97-417, §2(12), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 98-557, §25(a)(4), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 107-295, title I, §105(b), Nov. 25, 2002, 116 Stat. 2085; Pub. L. 109-241, title II, §207, July 11, 2006, 120 Stat. 521.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 772 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-241, §207(1), inserted “Reserve officers on an active-duty list shall not be counted as part of the authorized number of officers in the Reserve.” after “5,000.”

Subsec. (b)(1). Pub. L. 109-241, §207(2), added par. (1) and struck out former par. (1) which read as follows: “The authorized number of Reserve officers in an active status below the grade of rear admiral (lower half) shall be distributed in grade in the following percentages, respectively: captain, 1.5; commander, 7.0; lieutenant commander, 22.0; lieutenant, 37.0; and the combined grades of lieutenant (junior grade) and ensign, 32.5. When the actual number of Reserve officers in an active status in a grade is less than the number authorized, the difference may be applied to increase the authorized number in a lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law.”

2002—Subsec. (c). Pub. L. 107-295 added subsec. (c).

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore” wherever appearing.

1984—Subsec. (b). Pub. L. 98-557 designated existing provisions as par. (1), struck out provisions authorizing number of Reserve officers in an active status not on active duty in the combined grades of commodore and rear admiral as two, and added par. (2).

1983—Subsec. (b). Pub. L. 97-417 substituted “commodore” for “rear admiral” and “combined grades of commodore and rear admiral” for “grade of rear admiral”.

#### § 725. Precedence

(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer’s date of rank be changed due to the transfer.

(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same

manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

(d) Notwithstanding any other law, a Reserve officer shall not lose precedence by reason of promotion to the grade of rear admiral or rear admiral (lower half), if the promotion is determined in accordance with a running mate system.

(e) The Secretary shall adjust the date of rank of a Reserve officer so that no changes of precedence occur.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1008; amended Pub. L. 108-293, title II, §220(a), Aug. 9, 2004, 118 Stat. 1039.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 781 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

2004—Subsecs. (d), (e). Pub. L. 108-293 added subsecs. (d) and (e).

#### § 726. Running mates

(a) The Secretary shall assign a running mate to each Reserve officer in an active status not on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who has twice failed of selection or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment after being selected for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer’s running mate is promoted, the new running mate shall be that of-



ficer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1008.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 782 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

### § 727. Constructive credit upon initial appointment

Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a judge advocate in the Reserve shall be credited with a minimum of one year service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1009; amended Pub. L. 108-293, title II, §208, Aug. 9, 2004, 118 Stat. 1035; Pub. L. 109-241, title II, §218(b)(1), July 11, 2006, 120 Stat. 526.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 773 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

2006—Pub. L. 109-241 substituted “judge advocate” for “law specialist”.

2004—Pub. L. 108-293 substituted “one year” for “three years” in second sentence.

### § 728. Promotion of Reserve officers on active duty

(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 11 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the officer shall be included in the grade distribution authorized by this subchapter.

(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 11 of this title.

(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 11 of this title, shall be promoted to that grade as though selected under this subchapter.

(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 11 of this title shall count for all purposes.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1009.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 791 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

### § 729. Promotion; recommendations of selection boards

(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

(d)(1) Before convening a selection board to recommend Reserve officers for promotion, the Secretary shall establish a promotion zone for officers serving in each grade to be considered by the board. The Secretary shall determine the number of officers in the promotion zone for officers serving in any grade from among officers who are eligible for promotion in that grade.

(2)(A) Before convening a selection board to recommend Reserve officers for promotion to a

grade (other than the grade of lieutenant (junior grade)), the Secretary shall determine the maximum number of officers in that grade that the board may recommend for promotion.

(B) The Secretary shall make the determination under subparagraph (A) of the maximum number that may be recommended with a view to having in an active status a sufficient number of Reserve officers in each grade to meet the needs of the Coast Guard for Reserve officers in an active status.

(C) In order to make the determination under subparagraph (B), the Secretary shall determine the following:

(i) The number of positions needed to accomplish mission objectives that require officers in the grade to which the board will recommend officers for promotion.

(ii) The estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted.

(iii) The number of officers authorized by the Secretary to serve in an active status in the grade under consideration.

(iv) Any statutory limitation on the number of officers in any grade authorized to be in an active status.

(3)(A) The Secretary may, when the needs of the Coast Guard require, authorize the consideration of officers in a grade above lieutenant (junior grade) for promotion to the next higher grade from below the promotion zone.

(B) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion, except that the Secretary may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary determines that the needs of the Coast Guard so require. If the maximum number determined under this subparagraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

(C) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under paragraph (2).

(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grades of rear admiral (lower half) and rear admiral apply to a Reserve officer, except that to be eligible for consideration for promotion to the grade of rear admiral (lower half) an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

(f) The provisions of section 260 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

(g) The report of a selection board shall be submitted to the Secretary for review and trans-

mission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(h) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotions of Reserve officers shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 738 of this title. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list.

(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system, at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1010; amended Pub. L. 97-417, §2(13), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 106-398, §1 [[div. A], title V, §502(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-99; Pub. L. 107-295, title IV, §411(a), Nov. 25, 2002, 116 Stat. 2118.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 780 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

2002—Subsec. (i). Pub. L. 107-295 inserted “on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system,” after “grade”.

2000—Subsec. (d). Pub. L. 106-398 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “Before convening a selection board to recommend Reserve officers for promotion to a grade above lieutenant (junior grade), the Secretary shall determine the total number of Reserve officers to be selected for promotion to that grade. The number to be selected shall normally be equal to the number of vacancies existing in that grade, plus the number of vacancies anticipated over the next twelve months, minus the number of officers on the list of selectees for that grade. The Secretary may, however, prescribe regulations that provide for the establishment of promotion opportunity percentages for each grade to ensure that equitable promotion opportunities exist among successive groups of Reserve officers being considered for promotion. The number so determined may not cause the number of Reserve officers in an active status in a grade to exceed that authorized for the grade concerned.”

1985—Subsec. (e). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore” wherever appearing.

1983—Subsec. (e). Pub. L. 97-417 substituted “the grades of commodore and rear admiral” for “the grade of rear admiral”, and inserted “for promotion to the grade of commodore” after “consideration”.

## EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title V, §502(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-100, provided that: "The amendments made by this section [amending this section and section 731 of this title] shall apply with respect to selection boards convened under section 730 of title 14, United States Code, on or after the date of the enactment of this Act [Oct. 30, 2000]."

## DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (g) of this section, see section 2(c) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

**§ 730. Selection boards; appointment**

(a) A selection board shall (1) be appointed and convened by the Secretary; (2) consist of at least 50 per centum Reserve officer membership, except in the case of a flag officer selection board where, to the extent practicable, it shall consist of at least 50 per centum Reserve officer membership; (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board; and (4) be composed of not less than five members, which number constitutes a quorum.

(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

(c) Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness required of officers and the efficiency of the Coast Guard, perform the duties imposed upon him. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer's record in the armed forces that, in the opinion of the officer concerned, is important to the board's consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and may not criticize or reflect upon the character, conduct, or motive of any officer.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1011.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 775 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

**§ 731. Establishment of promotion zones under running mate system**

(a) **AUTHORITY TO USE RUNNING MATE SYSTEM.**—The Secretary may by regulation implement section 729(d)(1) of this title by requiring that the promotion zone for consideration of Reserve officers in an active status for promotion to the next higher grade be determined in ac-

cordance with a running mate system as provided in subsection (b).

(b) **CONSIDERATION FOR PROMOTION.**—If promotion zones are determined as authorized under subsection (a), a Reserve officer shall, subject to the eligibility requirements of this subchapter, be placed in a promotion zone when that officer's running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

- (1) two years in the grade of lieutenant (junior grade);
- (2) three years in the grade of lieutenant;
- (3) four years in the grade of lieutenant commander;
- (4) four years in the grade of commander; and
- (5) three years in the grade of captain.

(c) **CONSIDERATION OF OFFICERS BELOW THE ZONE.**—If the Secretary authorizes the selection of officers for promotion from below the promotion zone in accordance with section 729(d)(3) of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system under this subchapter or otherwise as the Secretary determines to be appropriate to meet the needs of the Coast Guard.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1011; amended Pub. L. 106-398, §1 [[div. A], title V, §502(b)(1), (2)(A)], Oct. 30, 2000, 114 Stat. 1654, 1654A-100; Pub. L. 107-295, title IV, §411(b), Nov. 25, 2002, 116 Stat. 2118.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 783 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

## AMENDMENTS

2002—Subsec. (b). Pub. L. 107-295 inserted before period at end “, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

- “(1) two years in the grade of lieutenant (junior grade);
- “(2) three years in the grade of lieutenant;
- “(3) four years in the grade of lieutenant commander;
- “(4) four years in the grade of commander; and
- “(5) three years in the grade of captain”.

2000—Pub. L. 106-398, §1 [[div. A], title V, §502(b)(2)(A)], substituted “Establishment of promotion zones under running mate system” for “Placement in promotion zone; consideration for promotion” as section catchline.

Pub. L. 106-398, §1 [[div. A], title V, §502(b)(1)], added subsec. (a), designated existing provisions as subsec.

(b), inserted subsec. (b) heading and substituted “If promotion zones are determined as authorized under subsection (a), a Reserve officer shall, subject to the eligibility requirements of this subchapter,” for “Subject to the eligibility requirements of this subchapter, a Reserve officer shall”, and added subsec. (c).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 applicable with respect to selection boards convened under section 730 of this title on or after Oct. 30, 2000, see section 1 [[div. A], title V, §502(c)] of Pub. L. 106-398, set out as a note under section 729 of this title.

**§ 732. Eligibility for promotion**

A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under subsection 741(a) of this title, is not eligible for consideration for promotion.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1011.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 774 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

**§ 733. Recommendation for promotion of an officer previously removed from an active status**

A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 777 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

**§ 734. Qualifications for promotion**

(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer's service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.

(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 786 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

**§ 735. Promotion; acceptance; oath of office**

(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 797 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

**§ 736. Date of rank upon promotion; entitlement to pay**

(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

(b) Notwithstanding any other provision of law and subject to subsection (c), if promotion of an inactive duty promotion list officer to the grade of rear admiral or rear admiral (lower half) is determined in accordance with a running mate system, a reserve officer, if acceptable to the President and the Senate, shall be promoted to the next higher grade no later than the date the officer's running mate is promoted.

(c) For the purposes of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary. However, the Secretary may adjust the date of appointment—

(1) if a delay in the finding required under section 734(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

(2) for any other reason that equity requires.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012; amended Pub. L. 97-417, §2(14), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101-225, title II, §203(4), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 107-295, title IV, §411(c), Nov. 25, 2002, 116 Stat. 2118; Pub. L. 108-293, title II, §220(b), (c), Aug. 9, 2004, 118 Stat. 1039.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 784 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-293, §220(b), amended subsec. (b) generally. Prior to amendment, subsec. (b)

read as follows: “Notwithstanding any other law, when the running mate of a reserve officer serving in the grade of rear admiral (lower half) is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade.”

Subsec. (c). Pub. L. 108-293, §220(c), struck out “of subsection (a)” after “For the purposes”.

2002—Subsec. (a). Pub. L. 107-295 inserted “the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event” after “subchapter.”

1989—Subsec. (c). Pub. L. 101-225 inserted provision authorizing Secretary to adjust date of appointment.

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1983—Subsec. (b). Pub. L. 97-417 substituted provision that, notwithstanding any other law, when the running mate of a reserve officer serving in the grade of commodore is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade, for provision that, notwithstanding any other law and when a Reserve officer's running mate was so entitled, a Reserve officer in the grade of rear admiral was entitled to the pay and allowances of the upper half for duty performed.

### § 737. Type of promotion; temporary

Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1012.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 790 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

### § 738. Effect of removal by the President or failure of consent of the Senate

(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title.

(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1013.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 788 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (a) of this section, see section 2(d) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

### § 739. Failure of selection for promotion

(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board that originally would have considered the officer but for the error.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1013.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 796 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

### § 740. Failure of selection and removal from an active status

(a) The Secretary—

(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral (lower half).

(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

(c) Subject to section 12646 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or

(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which the officer completes thirty years of total commissioned service as computed under this section.

(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the actual total commissioned service performed in a grade above commissioned warrant officer or the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer, whichever is greater.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1013; amended Pub. L. 97-417, §2(15), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 103-337, div. A, title XVI, §1677(b)(5), Oct. 5, 1994, 108 Stat. 3020.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 787 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

1994—Subsec. (c). Pub. L. 103-337 substituted “section 12646 of title 10” for “section 1006 of title 10”.

1985—Subsec. (a)(2). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1983—Subsec. (a)(2). Pub. L. 97-417 substituted “commodore” for “rear admiral”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

### § 741. Retention boards; removal from an active status to provide a flow of promotion

(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status who have 18 years or more of service for retirement, except those officers who—

- (1) are on extended active duty;
- (2) are on a list of selectees for promotion;
- (3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or
- (4) have reached age 59 by the date on which the retention board is convened.

The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status.

(b) This board shall—

- (1) to the extent practicable, consist of at least 50 per centum Reserve officers;

(2) consist only of officers who are senior in rank to any officers being considered by that board; and

(3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

(c) Subject to section 12646 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the report of the retention board is approved.

(d) The provisions of section 260 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1014; amended Pub. L. 101-225, title II, §203(5), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 103-206, title II, §203, Dec. 20, 1993, 107 Stat. 2420; Pub. L. 103-337, div. A, title XVI, §1677(b)(5), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 104-106, div. A, title XV, §1501(e)(1)(B), Feb. 10, 1996, 110 Stat. 501.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 787a of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-106 substituted “section 12646 of title 10” for “section 1006 of title 10”.

1994—Subsec. (b). Pub. L. 103-337, which directed amendment of subsec. (b) by substituting “section 12646 of title 10” for “section 1006 of title 10”, could not be executed because the words “section 1006 of title 10” did not appear in subsec. (b).

1993—Pub. L. 103-206 in subsec. (a) in first sentence substituted “, except those officers who—” and pars. (1) to (4) for “and are not on active duty and not on an approved list of selectees for promotion to the next higher grade”, realigned margin of second sentence, inserted “(b)” before “This board shall—” in third sentence and realigned margin, and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1989—Subsec. (a). Pub. L. 101-225 inserted “who have 18 years or more of service for retirement and are” before “not on active duty”.

#### 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 Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

### § 742. Maximum ages for retention in an active status

(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Re-

serve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

(c) Notwithstanding subsection<sup>1</sup> (a) and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

(d) For purposes of this section, “active duty” does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1014; amended Pub. L. 97-417, §2(16), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108-293, title II, §209, Aug. 9, 2004, 118 Stat. 1035.)

#### AMENDMENTS

2004—Pub. L. 108-293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

“(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age.

“(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

“(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes sixty-two years of age.”

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1983—Subsec. (b). Pub. L. 97-417 inserted “or commodore” after “rear admiral”.

#### § 743. Rear admiral and rear admiral (lower half); maximum service in grade

(a) Unless retained in or removed from an active status under any other law, a reserve rear admiral or rear admiral (lower half) shall be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes 4 years of service after the appointment of the officer to rear admiral (lower half).

(b) Notwithstanding any other provision of law, if promotion of inactive duty promotion list officers to the grade of rear admiral is not determined in accordance with a running mate system, a Reserve officer serving in an active status in the grade of rear admiral (lower half) shall be promoted to the grade of rear admiral, if acceptable to the President and the Senate, on the date the officer has served 2 years in an active status in grade of rear admiral (lower half), or in the case of a vacancy occurring prior to having served 2 years in an active status, on the date the vacancy occurs, if the officer served at

least 1 year in an active status in the grade of rear admiral (lower half).

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015; amended Pub. L. 97-417, §2(17)(A), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99-145, title V, §514(c)(1), (3)(A), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108-293, title II, §220(d), Aug. 9, 2004, 118 Stat. 1039.)

#### AMENDMENTS

2004—Pub. L. 108-293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Unless retained in or removed from an active status under any other law, a Reserve rear admiral or rear admiral (lower half) shall be removed from an active status on the day that officer completes four years combined service in the grades of rear admiral and rear admiral (lower half).”

1985—Pub. L. 99-145 substituted references to “rear admiral (lower half)” for “commodore” in section catchline and two places in text.

1983—Pub. L. 97-417 inserted reference to “commodore” in section catchline and text.

#### § 744. Appointment of a former Navy or Coast Guard officer

A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning the officer’s Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date or rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 792 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 745. Grade on entry upon active duty

A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 776 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

#### § 746. Recall of a retired officer; grade upon release

(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer’s performance has been satisfactory in the higher grade.

<sup>1</sup> So in original. Probably should be “subsections”.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1015.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 793 of this title prior to the complete revision of this chapter by Pub. L. 96-322.

**[§ 751. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]**

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 551; Aug. 3, 1950, ch. 536, §31, 64 Stat. 408, related to the purpose and administration of the Reserve.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1952.

**[§ 751a. Omitted]**

CODIFICATION

Section, added act Aug. 10, 1956, ch. 1041, §15(a), 70A Stat. 624, provided for the organization of the Coast Guard Reserve and was omitted in the general revision of this chapter by Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002. See section 701 of this section.

WOMEN'S BRANCH OF THE COAST GUARD RESERVE

Pub. L. 93-174, §3, Dec. 5, 1973, 87 Stat. 692, provided that: "Effective upon enactment of this Act [Dec. 5, 1973], all members of the women's branch of the Coast Guard Reserve who were serving on active or inactive duty on the day before enactment shall become members of the Coast Guard Reserve without loss of grade, rate, date of rank, or other benefits earned by their prior service."

**[§ 752. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]**

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to eligibility.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1952.

**[§ 752a. Omitted]**

CODIFICATION

Section, added act Aug. 10, 1956, ch. 1041, §15(a), 70A Stat. 625, related to the authorized strength of the Coast Guard Reserve and was omitted in the general revision of this chapter by Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002. See Section 702 of this title.

**[§ 753. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]**

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to term of appointment, duty, and training.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1952.

**[§§ 753a to 757. Omitted]**

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002.

Section 753a, added act Aug. 10, 1956, ch. 1041, §15(a), 70A Stat. 625, related to the Coast Guard Reserve Policy Board. See section 703 of this title.

Section 754, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to grades and ratings and military authority. See section 704 of this title.

Section 755, acts Aug. 4, 1949, ch. 393, 63 Stat. 551; Aug. 3, 1950, ch. 536, §32, 64 Stat. 408; Aug. 16, 1957, Pub. L. 85-149, 71 Stat. 369; Sept. 7, 1962, Pub. L. 87-649, §7(a), 76 Stat. 495; Sept. 25, 1965, Pub. L. 89-200, 79 Stat. 834; June 9, 1966, Pub. L. 89-444, §1(23), 80 Stat. 197; Dec. 5, 1973, Pub. L. 93-174, §2(1), 87 Stat. 692, related to benefits. See section 705 of this title.

Section 756, act Aug. 4, 1949, ch. 393, 63 Stat. 552, related to temporary membership. See section 706 of this title.

Section 757, act Aug. 4, 1949, ch. 393, 63 Stat. 552, related to exemption from military training and the draft. See section 711 of this title.

**[§ 758. Repealed. May 5, 1950, ch. 169, § 14(u), 64 Stat. 148]**

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 552, related to discipline. See the Uniform Code of Military Justice, section 801 et seq. of Title 10, Armed Forces.

**[§ 758a. Omitted]**

CODIFICATION

Section, added act Aug. 10, 1956, ch. 1041, §16(a), 70A Stat. 625; amended Sept. 7, 1962, Pub. L. 87-649, §14d(6), 76 Stat. 502, related to reserve student aviation pilots and was omitted in the general revision of this chapter by Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002. See section 709 of this title.

**[§ 759. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]**

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 553, related to uniform allowance.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1950.

**[§§ 759a to 761. Omitted]**

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002. Section 759a, added act Aug. 10, 1956, ch. 1041, §16(a), 70A Stat. 626; amended Sept. 24, 1963, Pub. L. 88-130, §1(12), 77 Stat. 190, related to wartime appointments and promotions. See section 710 of this title.

Section 760, acts Aug. 4, 1949, ch. 393, 63 Stat. 553; Oct. 31, 1951, ch. 655, §15, 65 Stat. 715; Aug. 3, 1956, ch. 926, §2(a), 70 Stat. 981; May 14, 1974, Pub. L. 93-283, §1(12), 88 Stat. 141, related to disability or death benefits for temporary members. See section 707 of this title.

Section 2(b) of act Aug. 3, 1956, provided that the amendments made by that section [amending subsec. (a) and adding subsec. (e) of section 760] applied only to benefits for months beginning after the month in which it was enacted [August, 1956].

Section 2(c) of act Aug. 3, 1956, provided that the entitlement of any person to benefits under the Federal Employees' Compensation Act [act Sept. 7, 1916, ch. 458, 39 Stat. 742, repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 632, see section 8101 et seq. of Title 5, Government Organization and Employees] as it was in effect before the enactment of this section [Aug. 3, 1956] was not affected by this section.

Section 761, act Aug. 4, 1949, ch. 393, 63 Stat. 554, related to members of the Reserve engaging in civil occupations.

**[§ 762. Repealed. Pub. L. 93-174, § 2(2), Dec. 5, 1973, 87 Stat. 692]**

Section, acts Aug. 4, 1949, ch. 393, §1, 63 Stat. 554; Aug. 10, 1956, ch. 1041, §17, 70A Stat. 626; Sept. 18, 1970, Pub. L. 91-402, §1(1), 84 Stat. 838, related to Women's Reserve.



**[§§ 763 to 765. Omitted]**

## CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002.

Section 763, added Pub. L. 87-704, §1(a), Sept. 27, 1962, 76 Stat. 632, related to a certificate of honorable service of temporary members. See section 708 of this title.

Section 764, added Pub. L. 92-479, §1, Oct. 9, 1972, 86 Stat. 794, related to active duty for emergency augmentation of regular forces. See section 712 of this title.

Section 765, added Pub. L. 93-283, §1(13), May 14, 1974, 88 Stat. 141, related to enlistment of members engaged in schooling. See section 713 of this title.

**[§§ 770 to 798. Omitted]**

## CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1002. Similar provisions are now set out in section 720 et seq. of this title.

Section 770, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1547; amended Pub. L. 91-402, §1(2), Sept. 18, 1970, 84 Stat. 839, defined terms. See section 720 of this title.

Section 2 of Pub. L. 91-402 provided that Reserve officers in each grade who were recommended as qualified for promotion under laws and regulations in effect the day before the effective date of that Act [Sept. 18, 1970] but not promoted to the grade for which recommended, be placed on a list in order of precedence, and promoted as if selected for promotion in the approved report of a selection board convened under the provisions of title 14, as amended by that Act [enacting sections 796 to 798 and amending sections 762, 770, 772, 774, 775, 780 to 782, 784, 787, 790, and 791 of this title], that Reserve officers who failed of selection for promotion to the next higher grade under laws and regulations in effect the day before the effective date of that Act be deemed to have failed of selection for promotion to the next higher grade under the provisions of title 14 as amended by that Act, and that the enactment of that Act did not terminate the appointment of any officer.

Section 771, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1548; amended Pub. L. 89-444, §1(24), June 9, 1966, 80 Stat. 197; Pub. L. 93-174, §2(3), Dec. 5, 1973, 87 Stat. 692, related to applicability of sections 770 to 798 of this title. See section 721 of this title.

Section 772, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1548; amended Pub. L. 86-559, §2(1), June 30, 1960, 74 Stat. 280; Pub. L. 91-402, §1(3), Sept. 18, 1970, 84 Stat. 839, related to authorized number of officers. See section 724 of this title.

Section 773, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1548; amended Pub. L. 86-559, §2(2), June 30, 1960, 74 Stat. 281, related to constructive credit upon initial appointment. See section 727 of this title.

Section 774, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1549; amended Pub. L. 91-402, §1(4), Sept. 18, 1970, 84 Stat. 839, related to eligibility for promotion and retention in active status. See section 732 of this title.

Section 775, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1549; amended Pub. L. 91-402, §1(5), Sept. 18, 1970, 84 Stat. 839; Pub. L. 93-174, §2(4), Dec. 5, 1973, 87 Stat. 692, related to appointment of selection boards. See section 730 of this title.

Section 776, added Pub. L. 85-861, §1, §5(2), Sept. 2, 1958, 72 Stat. 1549, related to Reserve officer's grade on entry upon active duty. See section 745 of this title.

Section 777, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1549, related to recommendations for promotion of officers previously removed from active status. See section 733 of this title.

Section 778, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1550, related to suspension of sections 770 to 798 of this title in war or national emergency. See section 722 of this title.

Section 779, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1550, related to sea or foreign service requirements.

Section 780, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1550; amended Pub. L. 91-402, §1(6), Sept. 18, 1970, 84 Stat. 839; Pub. L. 93-174, §2(5), (6), Dec. 5, 1973, 87 Stat. 692, related to recommendations of selection boards. See section 729 of this title.

Section 781, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1551; amended Pub. L. 91-402, §1(7), Sept. 18, 1970, 84 Stat. 840, related to precedence in grades of officers. See section 725 of this title.

Section 782, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1551; amended Pub. L. 91-402, §1(8), Sept. 18, 1970, 84 Stat. 840, related to running mates. See section 726 of this title.

Section 783, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1552, related to promotion zones. See section 731 of this title.

Section 784, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1552; amended Pub. L. 91-402, §1(9), Sept. 18, 1970, 84 Stat. 841, related to date of rank upon promotion. See section 736 of this title.

Section 785, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1552, related to limitations on consideration for promotion.

Section 786, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1552, related to qualifications for promotion. See section 734 of this title.

Section 787, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1552; amended Pub. L. 91-402, §1(10), Sept. 18, 1970, 84 Stat. 841; Pub. L. 93-174, §2(7), Dec. 5, 1973, 87 Stat. 692, related to failure of selection and elimination. See section 740 of this title.

Section 787a, added Pub. L. 86-559, §2(3), June 30, 1960, 74 Stat. 281, provided for elimination from active status of excessive numbers to provide a flow of promotions. See section 741 of this title.

Section 788, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1553, related to effect of removal by President or failure of consent of Senate. See section 738 of this title.

Section 789, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1553, related to maximum ages for retention in active status. See section 742 of this title.

Section 790, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1554; amended Pub. L. 91-402, §1(11), Sept. 18, 1970, 84 Stat. 841, related to types of promotion. See section 737 of this title.

Section 791, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1554; amended Pub. L. 88-130, §1(13), Sept. 24, 1963, 77 Stat. 190; Pub. L. 91-402, §1(12), Sept. 18, 1970, 84 Stat. 842, related to promotion of officers on active duty. See section 728 of this title.

Section 792, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1554, related to appointment of former Navy and Coast Guard officers. See section 744 of this title.

Section 793, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1554, related to grades upon relief of retired officers. See section 746 of this title.

Section 794, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1554, authorized Secretary to promulgate regulations. See section 633 of this title.

Section 795, added Pub. L. 85-861, §5(2), Sept. 2, 1958, 72 Stat. 1555, related to effect of sections 770 to 798 of this title on retirements and retired pay. See section 723 of this title.

Section 796, added Pub. L. 91-402, §1(13), Sept. 18, 1970, 84 Stat. 842; amended Pub. L. 93-174, §2(8), Dec. 5, 1973, 87 Stat. 692, related to failure of selection for promotion. See section 739 of this title.

Section 797, added Pub. L. 91-402, §1(13), Sept. 18, 1970, 84 Stat. 842, related to acceptance of promotion and oath of office. See section 735 of this title.

Section 798, added Pub. L. 91-402, §1(13), Sept. 18, 1970, 84 Stat. 843, related to maximum service in grade of rear admiral. See section 743 of this title.

**CHAPTER 23—COAST GUARD AUXILIARY**

Sec.

821. Administration of the Coast Guard Auxiliary.

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## AMENDMENTS

1996—Pub. L. 104-324, title IV, §§ 401(b), 402(b), 403(b), Oct. 19, 1996, 110 Stat. 3923, 3924, inserted “of the Coast Guard Auxiliary” after “Administration” in item 821, inserted “of the Coast Guard Auxiliary” after “Purpose” in item 822, and added item 823a.

### § 821. Administration of the Coast Guard Auxiliary

(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the “Auxiliary headquarters unit”), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

- (1) Chapter 26<sup>1</sup> 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.

(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.

(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

(2) The Secretary may treat personal property of the auxiliary as property of the United States—

(A) for the purposes of—

(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

(ii) section 641 of this title; and

(B) as otherwise provided in this chapter.

(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

(4) In this subsection, the term “personal property of the Auxiliary” means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104-324, title IV, § 401(a), Oct. 19, 1996, 110 Stat. 3922; Pub. L. 108-293, title II, § 226, Aug. 9, 2004, 118 Stat. 1041; Pub. L. 109-304, § 17(c), Oct. 6, 2006, 120 Stat. 1707.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 260, 263 (Feb. 19, 1941, ch. 8, title I, §§ 1, 4, 55 Stat. 9, 10).

This section continues the Auxiliary, redefining it as a nonmilitary organization, and providing for its administration. 81st Congress, House Report No. 557.

## AMENDMENTS

2006—Subsec. (b)(3) to (5). Pub. L. 109-304 added pars (3) to (5) and struck out former pars. (3) to (5) which read as follows:

“(3) The Act of March 3, 1925 (46 App. U.S.C. 781-790; popularly known as the Public Vessels Act).

“(4) The Act of March 9, 1920 (46 App. U.S.C. 741-752; popularly known as the Suits in Admiralty Act).

“(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).”

2004—Subsec. (d). Pub. L. 108-293 added subsec. (d).

1996—Pub. L. 104-324 inserted “of the Coast Guard Auxiliary” after “Administration” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Coast Guard Auxiliary established on February 19, 1941, is a nonmilitary organization administered by the Commandant under the direction of the Secretary.”

## USE OF COAST GUARD AUXILIARY

Pub. L. 99-640, § 9, Nov. 10, 1986, 100 Stat. 3548, provided that:

“(a) It is the sense of the Congress that the Coast Guard Auxiliary performs a broad range of services in behalf of the safety and security of the American people, and that the continued strength and vitality of the Coast Guard Auxiliary is important to the United States.

“(b)(1) The Secretary of Transportation shall investigate and submit to the Congress a report within 1 year after the date of enactment of this Act [Nov. 10, 1986] regarding—

“(A) the extent to which membership of the Coast Guard Auxiliary has declined in recent years and the causes of such decline;

“(B) the effect, if any, on the maritime community of any such decline in the performance levels of the Coast Guard Auxiliary in the areas of life-saving, assistance to persons in distress, safety patrols and in-

<sup>1</sup> So in original. Probably should be 171.

spections, and support missions for the Coast Guard; and

“(C) the effect, if any, of the Coast Guard’s non-emergency assistance policy on the overall effectiveness of the Coast Guard Auxiliary.

“(2) The report submitted by the Secretary under this section shall include such recommendations for legislative and administrative action as the Secretary considers appropriate to achieve and maintain the Coast Guard Auxiliary at its optimum strength.”

### § 822. Purpose of the Coast Guard Auxiliary

The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104-324, title IV, § 402(a), Oct. 19, 1996, 110 Stat. 3923.)

#### 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.

#### AMENDMENTS

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.”

### § 823. Eligibility, enrollments

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.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

#### 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.

### § 823a. 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 inter-

est, 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 26<sup>1</sup> 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) On or after January 1, 2001, 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; 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.)

#### REFERENCES IN TEXT

The Military Personnel and Civilian Employees’ Claims Act of 1964, referred to in subsec. (b)(8), is Pub. L. 88-558, Aug. 31, 1964, 78 Stat. 767, as amended, which enacted sections 240 to 243 of former Title 31, Money and Finance, amended section 2735 of Title 10, Armed Forces, and repealed section 490 of this title and section 2732 of Title 10, and which was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance. For disposition of sections of former Title 31 into revised Title 31, see Table preceding section 101 of Title 31. For complete classification of this Act to the Code, see Tables.

Section 651 of Public Law 104-208, referred to in subsec. (b)(9), is section 101(f) [title VI, § 651] of Pub. L. 104-208, which is set out as a note under section 8133 of Title 5, Government Organization and Employees.

#### AMENDMENTS

2006—Subsec. (b)(3) to (5). Pub. L. 109-304 added pars (3) to (5) and struck out former pars. (3) to (5) which read as follows:

“(3) The Act of March 3, 1925 (46 App. U.S.C. 781-790; popularly known as the Public Vessels Act).

“(4) The Act of March 9, 1920 (46 App. U.S.C. 741-752; popularly known as the Suits in Admiralty Act).

“(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).”

2002—Subsec. (b)(9). Pub. L. 107-295 added par. (9).

<sup>1</sup> So in original. Probably should be 171.

**§ 824. Disenrollment**

Members of the Auxiliary may be disenrolled pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

## HISTORICAL AND REVISION NOTES

Experience has shown that it is desirable to have a statute definitely providing for separation of Auxiliaries from the organization. 81st Congress, House Report No. 557.

**§ 825. Membership in other organizations**

Members of the Auxiliary may be appointed or enlisted in the Reserve, pursuant to applicable regulations, and membership in the Auxiliary shall not be a bar to membership in any other naval or military organization.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 264 (Feb. 19, 1941, ch. 8, title I, § 5, 55 Stat. 10).

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

**§ 826. Use of member's facilities**

(a) MOTOR BOATS, YACHTS, AIRCRAFT, AND RADIO STATIONS.—The Coast Guard may utilize for any purpose incident to carrying out its functions and duties as authorized by the Secretary any motorboat, yacht, aircraft, or radio station placed at its disposition for any of such purposes by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof.

(b) MOTOR VEHICLES.—The Coast Guard may utilize to carry out its functions and duties as authorized by the Secretary any motor vehicle (as defined in section 154 of title 23, United States Code) placed at its disposition by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof, to tow Federal Government property.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Aug. 3, 1950, ch. 536, § 35, 64 Stat. 408; Pub. L. 109-241, title II, § 208(a), July 11, 2006, 120 Stat. 522.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 265 (Feb. 19, 1941, ch. 8, title I, § 6, 55 Stat. 10; Nov. 23, 1942, ch. 639, § 2(1), 56 Stat. 1021; Sept. 30, 1944, ch. 453, § 3, 58 Stat. 760).

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

## AMENDMENTS

2006—Pub. L. 109-241 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1950—Act Aug. 3, 1950, struck out comma after “Secretary” and substituted “any” for “and” after “Secretary”.

**§ 827. Vessel deemed public vessel**

While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104-324, title IV, § 406, Oct. 19, 1996, 110 Stat. 3924.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 266 (Feb. 19, 1941, ch. 8, title I, § 7, 55 Stat. 10).

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

## AMENDMENTS

1996—Pub. L. 104-324 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Any motorboat or yacht, while assigned to authorized Coast Guard duty shall be deemed to be a public vessel of the United States, and within the meaning of section 646 of this title shall be deemed to be a vessel of the Coast Guard.”

**§ 828. Aircraft deemed public aircraft**

While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 104-324, title IV, § 407, Oct. 19, 1996, 110 Stat. 3925.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 266a (Feb. 19, 1941, ch. 8, title I, § 7A, as added Sept. 30, 1944, ch. 453, § 4, 58 Stat. 760).

The last clause of said section is eliminated because it might be construed to exempt planes of members from being licensed according to law.

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

## AMENDMENTS

1996—Pub. L. 104-324 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Any aircraft, while assigned to authorized Coast Guard duty shall be deemed to be a vessel of the Coast Guard within the meaning of section 646 of this title.”

**§ 829. Radio station deemed government station**

Any radio station, while assigned to authorized Coast Guard duty shall be deemed to be a radio station of the Coast Guard and a “government station” within the meaning of section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 94-546, § 1(38), Oct. 18, 1976, 90 Stat. 2522; Pub. L. 99-640, § 10(a)(8), Nov. 10, 1986, 100 Stat. 3549.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 266b (Feb. 19, 1941, ch. 8, title I, § 7B, as added Sept. 30, 1944, ch. 453, § 4, 58 Stat. 760).

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

## AMENDMENTS

1986—Pub. L. 99-640 substituted “section” for “Section”.

1976—Pub. L. 94-546 substituted “Section 305 of the Communications Act of 1934 (47 U.S.C. 305)” for “chapter 5, of Title 47”.

**§ 830. Availability of appropriations**

(a) Appropriations of the Coast Guard shall be available for the payment of actual necessary

traveling expense and subsistence, or commutation of ration allowance in lieu of subsistence, of members of the Auxiliary assigned to authorized duties and for actual necessary expenses of operation of any motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) when assigned to Coast Guard duty, but shall not be available for the payment of compensation for personal services, incident to such operation, other than to personnel of the Coast Guard or the Reserve. The term “actual necessary expenses of operation,” as used in this section, shall include payment for fuel, oil, power, water, supplies, provisions, replacement or repair of equipment, repair of any damaged motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) and for the constructive or actual loss of any motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) where it is determined, under applicable regulations, that responsibility for the loss or damage necessitating such replacement or repair of equipment, or for the damage or loss, constructive or actual, of such motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) rests with the Coast Guard.

(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.<sup>1</sup>

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 99-640, § 8, Nov. 10, 1986, 100 Stat. 3548; Pub. L. 104-324, title IV, § 404(a), Oct. 19, 1996, 110 Stat. 3924; Pub. L. 109-241, title II, § 208(b), July 11, 2006, 120 Stat. 522.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 267 (Feb. 19, 1941, ch. 8, title I, § 8, 55 Stat. 10; June 6, 1942, ch. 385, § 1(1), 56 Stat. 329; Sept. 30, 1944, ch. 449, § 2, 58 Stat. 757; Sept. 30, 1944, ch. 453, § 5, 58 Stat. 760).

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

#### REFERENCES IN TEXT

Section 6621 of the Internal Revenue Code of 1954, referred to in subsec. (b), was redesignated section 6621 of the Internal Revenue Code of 1986 by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, and is classified to section 6621 of Title 26, Internal Revenue Code.

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-241 substituted “radio station, or motorized vehicle utilized under section 826(b)” for “or radio station” wherever appearing.

1996—Subsec. (a). Pub. L. 104-324 struck out “specific” after “authorized”.

1986—Pub. L. 99-640 designated existing provisions as subsec. (a) and added subsec. (b).

### § 831. Assignment and performance of duties

No member of the Auxiliary, solely by reason of such membership, shall be vested with, or exercise, any right, privilege, power, or duty vested in or imposed upon the personnel of the Coast

Guard or the Reserve, except that any such member may, under applicable regulations, be assigned duties, which, after appropriate training and examination, he has been found competent to perform, to effectuate the purposes of the Auxiliary. No member of the Auxiliary shall be placed in charge of a motorboat, yacht, aircraft, or radio station assigned to Coast Guard duty unless he has been specifically designated by authority of the Commandant to perform such duty. Members of the Auxiliary, when assigned to duties as herein authorized shall, unless otherwise limited by the Commandant, be vested with the same power and authority, in the execution of such duties, as members of the regular Coast Guard assigned to similar duty. When any member of the Auxiliary is assigned to such duty he may, pursuant to regulations issued by the Secretary, be paid actual necessary traveling expenses, including a per diem allowance in conformity with standardized Government travel regulations in lieu of subsistence, while traveling and while on duty away from his home. No per diem shall be paid for any period during which quarters and subsistence in kind are furnished by the Government, and no per diem shall be paid for any period while such member is performing duty on a vessel.

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 104-324, title IV, § 404(b), Oct. 19, 1996, 110 Stat. 3924.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 268 (Feb. 19, 1941, ch. 8, title I, § 9, 55 Stat. 10; July 11, 1941, ch. 290, § 10(1), 55 Stat. 587; Sept. 30, 1944, ch. 453, § 6, 58 Stat. 761).

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

#### AMENDMENTS

1996—Pub. L. 104-324 struck out “specific” after “be assigned” and after “when assigned to”.

### § 832. Injury or death in line of duty

When any member of the Auxiliary is physically injured or dies as a result of physical injury incurred while performing any duty to which he has been assigned by competent Coast Guard authority, such member or his beneficiary shall be entitled to the same benefits provided for temporary members of the Reserve who suffer physical injury or death resulting from physical injury incurred incident to service. Members of the Auxiliary who incur physical injury or contract sickness or disease while performing any duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded members of the Coast Guard. The performance of a duty as the term is used in this section includes time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary.

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 93-283, § 1(15), May 14, 1974, 88 Stat. 141; Pub. L. 98-557, § 15(a)(3)(D), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 104-324, title IV, § 404(c), Oct. 19, 1996, 110 Stat. 3924.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 270 (Feb. 19, 1941, ch. 8, title I, § 11, as added Sept. 30, 1944, ch. 453, § 7, 58 Stat. 761).

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

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

## AMENDMENTS

1996—Pub. L. 104-324 struck out “specific” after “performing any” in two places and after “performance of a”.

1984—Pub. L. 98-557 substituted reference to members for reference to officers and enlisted men after “treatment afforded”.

1974—Pub. L. 93-283 included time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary as the performance of a specific duty.

### CHAPTER 25—GENERAL PROVISIONS FOR COAST GUARD RESERVE AND AUXILIARY

Sec.

891. Flags; pennants; uniforms and insignia.  
 892. Penalty.  
 893. Limitation on rights of members of the Auxiliary and temporary members of the Reserve.  
 894. Availability of facilities and appropriations.

#### § 891. Flags; pennants; uniforms and insignia

The Secretary may prescribe one or more suitable distinguishing flags, pennants, or other identifying insignia to be displayed by the motorboats, yachts, aircraft, and radio stations owned by members of the Auxiliary and one or more suitable insignia which may be worn by members of the Reserve or the Auxiliary, and may prescribe one or more suitable uniforms which may be worn by members of the Auxiliary. Such flags, pennants, uniforms, and insignia may be furnished by the Coast Guard at actual cost, and the proceeds received therefor shall be credited to current appropriations from which purchase of these articles is authorized.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §352 (Feb. 19, 1941, ch. 8, title III, §302, 55 Stat. 13; Sept. 30, 1944, ch. 453, §9, 58 Stat. 761).

Said section has been divided. The first two sentences are placed in this section. The last sentence is placed in section 892 of this title.

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

#### § 892. Penalty

Whoever, without proper authority, flies from any building, aircraft, motorboat, yacht, or other vessel, any flag or pennant or displays any identifying insignia or wears any uniform or in-

signia of the Reserve or the Auxiliary shall be fined not more than \$500.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §352 (Feb. 19, 1941, ch. 8, title III, §302, 55 Stat. 13; Sept. 30, 1944, ch. 453, §9, 58 Stat. 761).

Said section has been divided. The last sentence is placed in this section. The first two sentences are placed in section 891 of this title. 81st Congress, House Report No. 557.

#### § 893. Limitation on rights of members of the Auxiliary and temporary members of the Reserve

Members of the Auxiliary and temporary members of the Reserve shall be entitled only to such rights, privileges, and benefits as are specifically set forth for them in this title or as may be specifically provided for them in any other Act of Congress. Any Act of Congress which grants rights, privileges, or benefits generally to military personnel, or among others, to personnel of the Coast Guard and the Coast Guard Reserve, without specifically granting such rights, privileges, or benefits to members of the Auxiliary or temporary members of the Reserve, shall not be deemed applicable to members of the Auxiliary or to temporary members of the Reserve.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §271 (Feb. 19, 1941, ch. 8, title I, §12, as added Sept. 30, 1944, ch. 453, §8, 58 Stat. 761).

Temporary members of the Reserve are included within the provisions of this section.

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

#### § 894. Availability of facilities and appropriations

The services and facilities of and appropriations for the Coast Guard shall be available to effectuate the purposes of the Reserve and the Auxiliary.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

## HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §354 (Feb. 19, 1941, ch. 8, title III, §304, 55 Stat. 14).

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