

Sec.
247. Militia duty: exemptions.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 13 of this title “THE MILITIA” as chapter 12, redesignated item 311 “Militia: composition and classes” as item 246, and redesignated item 312 “Militia duty: exemptions” as item 247.

§ 246. Militia: composition and classes

(a) The militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard.

(b) The classes of the militia are—

- (1) the organized militia, which consists of the National Guard and the Naval Militia; and
- (2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 14, §311; Pub. L. 85-861, §1(7), Sept. 2, 1958, 72 Stat. 1439; Pub. L. 103-160, div. A, title V, §524(a), Nov. 30, 1993, 107 Stat. 1656; renumbered §246, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES
1956 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|----------------------------|--|
| 311(a) | 32:1 (less last 19 words). | June 3, 1916, ch. 134, §57, 39 Stat. 197; June 28, 1947, ch. 162, §7 (as applicable to §57 of the Act of June 3, 1916, ch. 134), 61 Stat. 192. |
| 311(b) | 32:1 (last 19 words). | |

In subsection (a), the words “who have made a declaration of intention” are substituted for the words “who have or shall have declared their intention”. The words “at least 17 years of age and * * * under 45 years of age” are substituted for the words “who shall be more than seventeen years of age and * * * not more than forty-five years of age”. The words “except as provided in section 313 of title 32” are substituted for the words “except as hereinafter provided”, to make explicit the exception as to maximum age.

In subsection (b), the words “The organized militia, which consists of the National Guard and the Naval Militia” are substituted for the words “the National Guard, the Naval Militia”, since the National Guard and the Naval Militia constitute the organized militia.

1958 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 311(a) | 32 App.:1. | July 30, 1956, ch. 789, §1, 70 Stat. 729. |

The words “appointed as . . . under section 4 of this title” are omitted as surplusage.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 311 of this title as this section.

1993—Subsec. (a). Pub. L. 103-160 substituted “members” for “commissioned officers”.

1958—Subsec. (a). Pub. L. 85-861 included female citizens of the United States who are commissioned officers of the National Guard.

§ 247. Militia duty: exemptions

(a) The following persons are exempt from militia duty:

- (1) The Vice President.
- (2) The judicial and executive officers of the United States, the several States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
- (3) Members of the armed forces, except members who are not on active duty.
- (4) Customhouse clerks.
- (5) Persons employed by the United States in the transmission of mail.
- (6) Workmen employed in armories, arsenals, and naval shipyards of the United States.
- (7) Pilots on navigable waters.
- (8) Mariners in the sea service of a citizen of, or a merchant in, the United States.

(b) A person who claims exemption because of religious belief is exempt from militia duty in a combatant capacity, if the conscientious holding of that belief is established under such regulations as the President may prescribe. However, such a person is not exempt from militia duty that the President determines to be non-combatant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §312; Pub. L. 100-456, div. A, title XII, §1234(a)(3), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109-163, div. A, title X, §1057(a)(7), Jan. 6, 2006, 119 Stat. 3441; renumbered §247, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|----------------------------|---|
| 312(a) | 32:3 (less last 67 words). | June 3, 1916, ch. 134, §59, 39 Stat. 197. |
| 312(b) | 32:3 (last 67 words). | |

In subsection (a), the words “Members of the armed forces” are substituted for the words “persons in the military or naval service”. The words “except members who are not on active duty” are inserted to reflect an opinion of the Judge Advocate General of the Army (JAGA 1952/4374, 9 July 1952). The word “artificers” is omitted as covered by the word “workmen”. The words “naval shipyards” are substituted for the words “navy yards” to reflect modern terminology. The words “on navigable waters” are inserted to preserve the original coverage of the word “pilots”. The words “actually” and “without regard to age” are omitted as surplusage.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 312 of this title as this section.

2006—Subsec. (a)(2). Pub. L. 109-163 substituted “States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands” for “States and Territories, and Puerto Rico”.

1988—Subsec. (a)(2). Pub. L. 100-456 substituted “and Puerto Rico” for “Puerto Rico, and the Canal Zone”.

CHAPTER 13—INSURRECTION

- Sec. 251. Federal aid for State governments.
- 252. Use of militia and armed forces to enforce Federal authority.
- 253. Interference with State and Federal law.
- 254. Proclamation to disperse.

Sec. 255. Guam and Virgin Islands included as “State”.

PRIOR PROVISIONS

A prior chapter 13, consisting of sections 311 and 312, was renumbered chapter 12, and sections 311 and 312 were renumbered sections 246 and 247, respectively.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 15 of this title “INSURRECTION” as chapter 13, redesignated item 331 “Federal aid for State governments” as item 251, redesignated item 332 “Use of militia and armed forces to enforce Federal authority” as item 252, redesignated item 333 “Interference with State and Federal law” as item 253, redesignated item 334 “Proclamation to disperse” as item 254, and redesignated item 335 “Guam and Virgin Islands included as ‘State’” as item 255.

2008—Pub. L. 110-181, div. A, title X, §1068(a)(3), (4)(A), Jan. 28, 2008, 122 Stat. 325, substituted “INSURRECTION” for “ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER” in chapter heading, added item 333, and struck out former item 333 “Major public emergencies; interference with State and Federal law”.

2006—Pub. L. 109-364, div. A, title X, §1076(a)(3), (4)(B), Oct. 17, 2006, 120 Stat. 2405, substituted “ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER” for “INSURRECTION” in chapter heading and “Major public emergencies; interference with State and Federal law” for “Interference with State and Federal law” in item 333.

1980—Pub. L. 96-513, title V, §511(11)(C), Dec. 12, 1980, 94 Stat. 2921, added item 335.

§ 251. Federal aid for State governments

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §331; renumbered §251, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 331: 50:201, R.S. 5297.

The words “armed forces” are substituted for the words “land or naval forces of the United States”. The word “governor” is substituted for the word “executive”. The word “may” is substituted for the words “it shall be lawful * * * to”. The words “into Federal service” are substituted for the word “forth” for uniformity and clarity.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 331 of this title as this section.

§ 252. Use of militia and armed forces to enforce Federal authority

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State by the ordinary course of judicial proceedings, he may

call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §332; Pub. L. 109-163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; renumbered §252, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 332: 50:202, R.S. 5298.

50:202 (last 22 words) is omitted as surplusage. The words “armed forces” are substituted for the words “land and naval forces of the United States”. The words “call into Federal service such of the militia” are substituted for the words “call forth the militia of any or all the States” for clarity and uniformity. The word “may” is substituted for the words “it shall be lawful”. The words “faithful execution of the” and “in whatever State or Territory thereof the laws of the United States may be forcibly opposed” are omitted as surplusage.

DERIVATION

Act July 29, 1861, ch. 25, §1, 12 Stat. 281.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 332 of this title as this section.

2006—Pub. L. 109-163 struck out “or Territory” after “in any State”.

EX. ORD. NO. 10730. ASSISTANCE FOR REMOVAL OF AN OBSTRUCTION OF JUSTICE WITHIN THE STATE OF ARKANSAS

Ex. Ord. No. 10730, Sept. 24, 1957, 22 F.R. 7628, authorized the Secretary of Defense to order into the active military service of the United States units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas for an indefinite period and until relieved by appropriate orders in order to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstructions to justice in respect to enrollment and attendance at public schools in the Little Rock School District, Little Rock, Arkansas; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such orders of the district court; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11053. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI

Ex. Ord. No. 11053, Sept. 30, 1962, 27 F.R. 9681, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Mississippi for an indefinite period and until relieved by appropriate orders in order to enforce all orders of the United States District Court for the Southern District of Mississippi and of the United States Court of Appeals for the Fifth Circuit for the removal of obstructions to justice in the State of Mississippi; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such court orders; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11111. ASSISTANCE FOR REMOVAL OF OBSTRUCTIONS OF JUSTICE AND SUPPRESSION OF UNLAWFUL COMBINATIONS WITHIN THE STATE OF ALABAMA

Ex. Ord. No. 11111, June 11, 1963, 28 F.R. 5709, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States within that State and the orders of the United States District Court for the Northern District of Alabama, to remove obstructions to justice, and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the laws of the United States or impede the course of justice under those laws within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11118. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF ALABAMA

Ex. Ord. No. 11118, Sept. 10, 1963, 28 F.R. 9863, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States and any orders of United States Courts relating to the enrollment and attendance of students in public schools in the State of Alabama and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the law or impede the course of justice under the law within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

§ 253. Interference with State and Federal law

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

- (1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or
- (2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §333; Pub. L. 109-364, div. A, title X, §1076(a)(1), Oct. 17, 2006, 120 Stat. 2404; Pub. L. 110-181, div. A, title X, §1068(a)(1), Jan. 28, 2008, 122 Stat. 325; renumbered §253, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 333 | 50:203. | R.S. 5299. |

The words “armed forces” are substituted for the words “land or naval forces of the United States”. The word “shall” is substituted for the words “it shall be lawful for * * * and it shall be his duty”.

DERIVATION

Act Apr. 20, 1871, ch. 22, §3, 17 Stat. 14.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 333 of this title as this section.

2008—Pub. L. 110-181 amended section generally, substituting provisions directing the President to suppress certain insurrections and domestic violence in a State for provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority.

2006—Pub. L. 109-364 amended section catchline and text generally, substituting provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority for provisions directing the President to suppress certain insurrections and domestic violence in a State.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title X, §1068(d), Jan. 28, 2008, 122 Stat. 326, provided that: “The amendments made by this section [amending this section and sections 334 and 12304 of this title and repealing section 2567 of this title] shall take effect on the date of the enactment of this Act [Jan. 28, 2008].”

§ 254. Proclamation to disperse

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16, §334; Pub. L. 109-364, div. A, title X, §1076(a)(2), Oct. 17, 2006, 120 Stat. 2405; Pub. L. 110-181, div. A, title X, §1068(a)(2), Jan. 28, 2008, 122 Stat. 325; renumbered §254, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 334 | 50:204. | R.S. 5300. |

The words “militia or the armed forces” are substituted for the words “military forces” for clarity and to conform to sections 331, 332, and 333 of this title.

DERIVATION

Act July 29, 1861, ch. 25, §2, 12 Stat. 282.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 334 of this title as this section.

2008—Pub. L. 110-181 struck out “or those obstructing the enforcement of the laws” after “insurgents”.

2006—Pub. L. 109-364 inserted “or those obstructing the enforcement of the laws” after “insurgents”.

PROC. NO. 3204. OBSTRUCTION OF JUSTICE IN THE STATE
OF ARKANSAS

Proc. No. 3204, Sept. 23, 1957, 22 F.R. 7628, commanded all persons in the State of Arkansas who were obstructing the enforcement of orders of the United States District Court for the Eastern District of Arkansas relating to enrollment and attendance at public schools, particularly Central High School at Little Rock, Arkansas, to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3497. OBSTRUCTION OF JUSTICE IN THE STATE
OF MISSISSIPPI

Proc. No. 3497, Sept. 30, 1962, 27 F.R. 9681, commanded all persons in the State of Mississippi who were obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit to cease and desist therefrom and to disperse and retire peaceably forthwith.

PROC. NO. 3542. UNLAWFUL OBSTRUCTION OF JUSTICE AND
COMBINATIONS IN THE STATE OF ALABAMA

Proc. No. 3542, June 11, 1963, 28 F.R. 5707, commanded the Governor of the State of Alabama and all other persons who were obstructing the orders of the United States District Court for the Northern District of Alabama relating to the enrollment and attendance of Negro students at the University of Alabama to cease and desist therefrom.

PROC. NO. 3554. OBSTRUCTION OF JUSTICE IN THE STATE
OF ALABAMA

Proc. No. 3554, Sept. 10, 1963, 28 F.R. 9861, commanded all persons obstructing the enforcement of orders entered by the United States District Courts in the State of Alabama relating to the enrollment and attendance of students in public schools in that State to cease and desist therefrom and to disperse and retire peaceably forthwith.

PROC. NO. 3645. OBSTRUCTION OF JUSTICE IN THE STATE
OF ALABAMA

Proc. No. 3645, Mar. 23, 1965, 30 F.R. 3739, commanded all persons engaged or who may engage in domestic violence obstructing the enforcement of the laws and the judicial order approving the right to march along U.S. Highway 80 from Selma to Montgomery, Alabama commencing during the period from Mar. 19, 1965 to Mar. 22, 1965 and terminating within 5 days of the commencement to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3795. OBSTRUCTION OF JUSTICE IN THE STATE
OF MICHIGAN

Proc. No. 3795, July 26, 1967, 32 F.R. 10905, commanded all persons engaged in domestic violence and disorder in Detroit, Michigan, and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3840. OBSTRUCTION OF JUSTICE IN THE
WASHINGTON METROPOLITAN AREA

Proc. No. 3840, Apr. 9, 1968, 33 F.R. 5495, commanded all persons engaged in acts of violence threatening the Washington Metropolitan Area and obstructing the execution of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3841. OBSTRUCTION OF JUSTICE IN THE STATE
OF ILLINOIS

Proc. No. 3841, Apr. 9, 1968, 33 F.R. 5497, commanded all persons engaged in violence in and about the City of Chicago and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3842. OBSTRUCTION OF JUSTICE IN THE STATE
OF MARYLAND

Proc. No. 3842, Apr. 9, 1968, 33 F.R. 5499, commanded all persons engaged in acts of violence and obstructing

the enforcement of the laws in and about the City of Baltimore to cease and desist therefrom and to disperse forthwith.

**§ 255. Guam and Virgin Islands included as
“State”**

For purposes of this chapter, the term “State” includes Guam and the Virgin Islands.

(Added Pub. L. 90-497, § 11, Sept. 11, 1968, 82 Stat. 847, § 335; amended Pub. L. 96-513, title V, § 511(1)(A), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 109-163, div. A, title X, § 1057(a)(8), Jan. 6, 2006, 119 Stat. 3441; renumbered § 255, Pub. L. 114-328, div. A, title XII, § 1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 335 of this title as this section.

2006—Pub. L. 109-163 struck out “the unincorporated territories of” before “Guam”.

1980—Pub. L. 96-513 inserted “and Virgin Islands” after “Guam” in section catchline and inserted provision respecting applicability to the Virgin Islands.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE

Pub. L. 90-497, § 11, Sept. 11, 1968, 82 Stat. 847, provided that this section is effective on date of enactment of Pub. L. 90-497, which was approved on Sept. 11, 1968.

**CHAPTER 14—ARMING OF AMERICAN
VESSELS**

Sec.

261. During war or threat to national security.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XII, § 1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 17 of this title “ARMING OF AMERICAN VESSELS” as chapter 14 and redesignated item 351 “During war or threat to national security” as item 261.

§ 261. During war or threat to national security

(a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

(b) This section applies during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests.

(c) Section 16 of the Act of March 4, 1909 (22 U.S.C. 463) does not apply to vessels armed under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16, § 351; Pub. L. 96-513, title V, § 511(12), Dec. 12, 1980, 94 Stat. 2921; renumbered § 261, Pub. L. 114-328, div. A, title XII, § 1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)