

Public Law 94-286
94th Congress

An Act

To amend chapter 39 of title 10, United States Code, to enable the President to authorize the involuntary order to active duty of Selected Reservists, for a limited period, whether or not a declaration of war or national emergency has been declared.

May 14, 1976

[S. 2115]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 39 of title 10, United States Code, is amended by inserting the following new section after section 673a and inserting a corresponding item in the chapter analysis:

Armed Forces.
Selected Reserve,
involuntary order
to active duty.

“§ 673b. Selected Reserve; order to active duty other than during war or national emergency

10 USC 673b.

“(a) Notwithstanding the provisions of section 673(a) or any other provision of law, when the President determines that it is necessary to augment the active forces for any operational mission, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, without the consent of the members concerned, to order any unit, and any member not assigned to a unit organized to serve as a unit, of the Selected Reserve (as defined in section 268(b) of this title), under their respective jurisdictions, to active duty (other than for training) for not more than 90 days.

“(b) No unit or member of a Reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 15 or section 3500 or 8500 of this title, or to provide assistance to either the Federal Government or a State in time of a serious natural or manmade disaster, accident, or catastrophe.

10 USC 331,
3500, 8500.

“(c) Not more than 50,000 members of the Selected Reserve may be on active duty under this section at any one time.

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

“(e) The Secretary of Defense and the Secretary of Transportation shall prescribe such policies and procedures for the Armed Forces under their respective jurisdictions as they consider necessary to carry out this section.

Policies and
procedures.

“(f) Whenever the President authorizes the Secretary of Defense or the Secretary of Transportation to order any unit or member of the Selected Reserve to active duty, under the authority of subsection (a), he shall, within 24 hours after exercising such authority, submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of these units or members.

Report to
Congress.

“(g) Whenever any unit of the Selected Reserve or any member of the Selected Reserve not assigned to a unit organized to serve as a unit is ordered to active duty under authority of subsection (a),

the service of all units or members so ordered to active duty may be terminated by—

- “(1) order of the President, or
- “(2) a concurrent resolution of the Congress.

“(h) Nothing contained in this section shall be construed as amending or limiting the application of the provisions of the War Powers Resolution.”

Sec. 2. Section 2024 of title 38, United States Code, is amended by adding the following new subsection after subsection (f) :

Reemployment rights.

“(g) Any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty for not more than 90 days under section 673b of title 10, United States Code, whether or not voluntarily, shall be entitled to all reemployment rights and benefits provided under subsection (c) of this section for persons ordered to an initial period of active duty for training of not less than three consecutive months; and shall have the service limitation governing eligibility for reemployment rights under subsections (a) and (b) (1) of this section extended by his period of such active duty.”

Approved May 14, 1976.

“(f) Not more than 90 days of active duty shall be ordered under this section at any one time.

“(g) Members ordered to active duty under this section shall not be entitled to compensation or benefits in addition to active duty or members in grade under this title or any other law.

“(h) The Secretary of Defense and the Secretary of Transportation shall prescribe such orders and procedures for the Armed Forces under their respective jurisdictions as they consider necessary to carry out this section.

“(i) Whenever the President authorizes the Secretary of Defense or the Secretary of Transportation to order any unit or member of the Selected Reserve to active duty under the authority of this section (a) he shall, within 30 days after execution of such authority, submit to the Speaker of the House of Representatives and to the President a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the circumstances.

LEGISLATIVE HISTORY:

- HOUSE REPORT No. 94-1069 (Comm. on Armed Services).
- SENATE REPORT No. 94-562 (Comm. on Armed Services).
- CONGRESSIONAL RECORD, Vol. 122 (1976):
 - Jan. 26, considered and passed Senate.
 - May 3, considered and passed House.
- WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 21:
 - May 14, Presidential statement.