

(c)(1) The authorized strengths of the Marine Corps Reserve in officers in an active status in the grades of colonel, lieutenant colonel, major, and captain, and in the grades of first lieutenant and second lieutenant combined, are the following percentages of the total authorized number of those officers:

Colonel .....	2 percent
Lieutenant colonel .....	8 percent
Major .....	16 percent
Captain .....	39 percent
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title) .....	35 percent.

(2) When the actual number of officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

(d)(1) An officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of commissioned officers authorized for the officer's grade under this section.

(2) An officer of the Navy Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

(Added Pub. L. 103-337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2985; amended Pub. L. 106-398, §1 [[div. A], title IV, §423], Oct. 30, 2000, 114 Stat. 1654, 1654A-96; Pub. L. 108-375, div. A, title V, §504, Oct. 28, 2004, 118 Stat. 1875; Pub. L. 109-163, div. A, title V, §515(b)(1)(FF), Jan. 6, 2006, 119 Stat. 3233.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3219, 5457(b)-(d), 5458(b)-(d), and 8219 of this title, prior to repeal by Pub. L. 103-337, §1662(a)(3).

##### AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve” in introductory provisions.

Subsec. (d)(2). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

2004—Subsec. (c)(1). Pub. L. 108-375 amended table generally, increasing percentages of authorized number of officers in grades other than colonel.

2000—Subsec. (a)(3). Pub. L. 106-398 added par. (3).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 12006. Strength limitations: authority to waive in time of war or national emergency

(a) In time of war, or of national emergency declared by Congress or the President, the President may suspend the operation of any provision of section 12003, 12004, or 12005 of this title. So long as any such war or national emergency continues, any such suspension may be extended by the President.

(b) Any suspension under subsection (a) shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621, 1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of termination of the emergency.

(Added Pub. L. 103-337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2986.)

#### Editorial Notes

##### REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (b), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title II of the Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### Executive Documents

##### DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, set out as a note under section 12302 of this title.

#### § 12007. Reserve officers of the Army: distribution

The Secretary of the Army shall distribute the number of reserve commissioned officers, other than commissioned warrant officers, authorized in each commissioned grade between those assigned to reserve units organized to serve as units and those not assigned to such units. The Secretary shall distribute the number who are assigned to reserve units organized to serve as units among the units of each reserve component by prescribing appropriate tables of organization and tables of distribution. The Secretary shall distribute the number who are not assigned to such units between—

- (1) each special branch; and
- (2) all other branches taken together.

(Added Pub. L. 103-337, div. A, title XVI, §1662(a)(1), Oct. 5, 1994, 108 Stat. 2986.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3220 of this title, prior to repeal by Pub. L. 103-337, §1662(a)(3).