

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
675	50:927(c).	July 9, 1952, ch. 608, § 207(c), 66 Stat. 483.

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-106 substituted “Retired Reserve (other)” for “Ready Reserve (other)”.

1994—Pub. L. 103-337, § 1675(c)(5), substituted “688 or 12301(a)” for “672(a) or 688”, “12641(b)” for “1001(b)”, and “1223” for “67”.

Pub. L. 103-337, § 1662(e)(2), renumbered section 675 of this title as this section.

1989—Pub. L. 101-189 inserted at end “A member of the Ready Reserve (other than a member transferred to the Retired Reserve under section 1001(b) of this title) who is ordered to active duty or other appropriate duty in a retired status may be credited under chapter 67 of this title with service performed pursuant to such order. A member in a retired status is not eligible for promotion (or for consideration for promotion) as a Reserve.”

1983—Pub. L. 98-94 inserted reference to section 688.

Statutory Notes and Related Subsidiaries

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 this title.

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 this title.

§ 12308. Retention after becoming qualified for retired pay

Any person who has qualified for retired pay under chapter 1223 of this title may, with his consent and by order of the Secretary concerned, be retained on active duty, or in service in a reserve component other than that listed in section 12732(b) of this title. A member so retained shall be credited with that service for all purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 29, § 676; renumbered § 12308 and amended Pub. L. 103-337, div. A, title XVI, §§ 1662(e)(2), 1675(c)(6), Oct. 5, 1994, 108 Stat. 2992, 3017.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
676	10:1036a(e), 34:440i(e).	June 29, 1948, ch. 708, § 302(e), 62 Stat. 1088.

The words “active duty, or in service, in a reserve component other than that listed in section 1332(b) of this title” are inserted to reflect the words “Federal service”, as used in Title III of the source statute. The words “that service for all purposes” are substituted for 10:1036a(e) (last 11 words) and 34:440i(e) (last 11 words). The words “upon attaining the age of sixty years” are omitted as surplusage.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337, § 1675(c)(6), substituted “1223” for “67” and “12732(b)” for “1332(b)”.

Pub. L. 103-337, § 1662(e)(2), renumbered section 676 of this title as this section.

Statutory Notes and Related Subsidiaries

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 this title.

§ 12309. Reserve officers: use of in expansion of armed forces

When an expansion of the active armed forces requires that officers of the reserve components who are not members of units organized to serve as such be ordered as individuals to active duty (other than for training) without their consent, the services of qualified and available reserve officers in all grades shall be used, so far as practicable, according to the needs of the branches, grades, or specialties concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 29, § 677; renumbered § 12309, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
677	50:961(f).	July 9, 1952, ch. 608, § 233(f), 66 Stat. 490.

The words “without their consent” are substituted for the word “involuntarily”. The words “it shall be the policy” are omitted as surplusage. The words “to active duty (other than for training)” are substituted for the words “into the active military service”.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 677 of this title as this section.

§ 12310. Reserves: for organizing, administering, etc., reserve components

(a) AUTHORITY.—(1) The Secretary concerned may order a member of a reserve component under the Secretary’s jurisdiction to active duty pursuant to section 12301(d) of this title to perform Active Guard and Reserve duty organizing, administering, recruiting, instructing, or training the reserve components.

(2) A Reserve ordered to active duty under paragraph (1) shall be ordered in the Reserve’s reserve grade. While so serving, the Reserve continues to be eligible for promotion as a Reserve, if otherwise qualified.

(b) DUTIES.—A Reserve on active duty under subsection (a) may perform the following additional duties to the extent that the performance of those duties does not interfere with the performance of the Reserve’s primary Active Guard and Reserve duties described in subsection (a)(1):

(1) Supporting operations or missions assigned in whole or in part to the reserve components.

(2) Supporting operations or missions performed or to be performed by—

(A) a unit composed of elements from more than one component of the same armed force; or

(B) a joint forces unit that includes—

(i) one or more reserve component units; or

(ii) a member of a reserve component whose reserve component assignment is in a position in an element of the joint forces unit.

(3) Advising the Secretary of Defense, the Secretaries of the military departments, the Joint Chiefs of Staff, and the commanders of the combatant commands regarding reserve component matters.

(4) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

(A) active-duty members of the armed forces;

(B) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

(C) Department of Defense contractor personnel; or

(D) Department of Defense civilian employees.

(c) OPERATIONS RELATING TO DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION AND TERRORIST ATTACKS.—(1) Notwithstanding subsection (b), a Reserve on active duty as described in subsection (a), or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a), may, subject to paragraph (3), perform duties in support of emergency preparedness programs to prepare for or to respond to any emergency involving any of the following:

(A) The use or threatened use of a weapon of mass destruction (as defined in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) in the United States.

(B) A terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.

(C) The intentional or unintentional release of nuclear, biological, radiological, or toxic or poisonous chemical materials in the United States that results, or could result, in catastrophic loss of life or property.

(D) A natural or manmade disaster in the United States that results in, or could result in, catastrophic loss of life or property.

(2) The costs of the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for a Reserve performing duties under the authority of paragraph (1) shall be paid from the appropriation that is available to pay such costs for other members of the reserve component of that Reserve who are performing duties as described in subsection (a).

(3) A Reserve may perform duty described in paragraph (1) only while assigned to a reserve component weapons of mass destruction civil support team.

(4) Reserves on active duty who are performing duties described in paragraph (1) shall be counted against the annual end strength authorizations required by section 115(a)(1)(B) and 115(a)(2) of this title. The justification material for the defense budget request for a fiscal year shall identify the number and component of the Reserves programmed to be performing duties described in paragraph (1) during that fiscal year.

(5) A reserve component weapons of mass destruction civil support team, and any Reserve assigned to such a team, may not be used to respond to an emergency described in paragraph (1) unless the Secretary of Defense has certified to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives that that team, or that Reserve, possesses the requisite skills, training, and equipment to be proficient in all mission requirements.

(6) If the Secretary of Defense submits to Congress any request for the enactment of legislation to modify the requirements of paragraphs (1) and (3), the Secretary shall provide with the request—

(A) justification for each such requested modification; and

(B) the Secretary's plan for sustaining the qualifications of the personnel and teams described in paragraph (3).

(7) In this subsection, the term “United States” includes the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(d) TRAINING.—A Reserve on active duty as described in subsection (a) may be provided training consistent with training provided to other members on active duty, as the Secretary concerned sees fit.

(Aug. 10, 1956, ch. 1041, 70A Stat. 30, § 678; renumbered § 12310 and amended Pub. L. 103–337, div. A, title XVI, §§ 1662(e)(2), 1675(c)(7), Oct. 5, 1994, 108 Stat. 2992, 3017; Pub. L. 104–201, div. A, title V, § 541, Sept. 23, 1996, 110 Stat. 2521; Pub. L. 105–261, div. A, title V, § 511(b)(1), Oct. 17, 1998, 112 Stat. 2006; Pub. L. 106–65, div. A, title V, §§ 555(a), (b), 556, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 617–619, 774; Pub. L. 107–314, div. A, title V, § 514(b), title IX, § 933, Dec. 2, 2002, 116 Stat. 2539, 2626; Pub. L. 109–364, div. A, title V, § 525(a), 527, Oct. 17, 2006, 120 Stat. 2193, 2196; Pub. L. 111–84, div. A, title X, § 1073(a)(34), Oct. 28, 2009, 123 Stat. 2474.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
678(a)	50:962 (2d sentence).	July 9, 1952, ch. 608, § 234.
678(b)	50:962 (less 1st and 2d sentences).	(less 1st sentence), 66 Stat. 490.

In subsection (a), the words “to active duty under section 672(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components” are substituted for the words “into the active military service of the United States under the provisions of this section”. The words “his reserve grade” are substituted for the words “held by them in the Reserve of their Armed Force”. The words “as a Reserve”, in the last sentence of the revised subsection, are substituted for the words “in the Reserve of their Armed Force”. The word “Hereafter” is omitted as surplusage.

Subsection (b) is substituted for 50:962 (less 1st and 2d sentences).

Editorial Notes

AMENDMENTS

2009—Subsec. (c)(1)(A). Pub. L. 111-84 substituted “section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))” for “section 12304(i)(2) of this title”.

2006—Subsecs. (a), (b). Pub. L. 109-364, §525(a), amended subsecs. (a) and (b) generally, substituting provisions relating to authority of the Secretary concerned to order a member of a reserve component to active duty and setting forth duties including supporting operations or missions, providing advice regarding reserve component matters, and providing instruction or training of active-duty members of the armed forces or foreign military forces and Department of Defense contractor personnel or civilian employees, for provisions relating to grade when a Reserve is ordered to active duty and setting forth duties including supporting operations or missions and providing advice regarding reserve component matters.

Subsec. (c). Pub. L. 109-364, §527(b)(1), substituted “Operations Relating to Defense Against Weapons of Mass Destruction and Terrorist Attacks” for “Duties Relating to Defense Against Weapons of Mass Destruction” in heading.

Subsec. (c)(1). Pub. L. 109-364, §527(a)(1)(A), substituted “involving any of the following:” for “involving—” in introductory provisions.

Subsec. (c)(1)(A) to (D). Pub. L. 109-364, §527(a)(1)(B), added subpars. (A) to (D) and struck out former subpars. (A) and (B) which read as follows:

“(A) the use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title); or

“(B) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.”

Subsec. (c)(3). Pub. L. 109-364, §527(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “A Reserve may perform duties described in paragraph (1) only while assigned to a reserve component rapid assessment element team and performing those duties within the geographical limits of the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.”

Subsec. (c)(5). Pub. L. 109-364, §527(b)(2), substituted “weapons of mass destruction civil support team” for “rapid assessment element team”.

Subsec. (c)(6). Pub. L. 109-364, §527(b)(3)(A), substituted “paragraphs (1) and (3)” for “paragraph (3)” in introductory provisions.

Subsec. (c)(6)(B). Pub. L. 109-364, §527(b)(3)(B), substituted “(3)” for “(3)(B)”.

Subsec. (c)(7). Pub. L. 109-364, §527(a)(3), added par. (7).

2002—Subsec. (c)(1). Pub. L. 107-314, §514(b), substituted “involving—

“(A) the use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title); or

“(B) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.”

for “involving the use of a weapon of mass destruction (as defined in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).”

Subsec. (c)(3). Pub. L. 107-314, §933, substituted “only while assigned” for “only—

“(A) while assigned to the Department of Defense Consequence Management Program Integration Office; or

“(B) while assigned”.

1999—Subsec. (a). Pub. L. 106-65, §555(b)(1), inserted heading.

Subsec. (b). Pub. L. 106-65, §555(a)(2), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 106-65, §555(b)(2), inserted heading.

Subsec. (c)(1). Pub. L. 106-65, §555(b)(2), substituted “Notwithstanding subsection (b), a Reserve” for “A Reserve”.

Subsec. (c)(4). Pub. L. 106-65, §556(a), struck out first sentence which read as follows: “The number of Reserves on active duty who are performing duties described in paragraph (1) at the same time may not exceed 228.”

Subsec. (c)(5). Pub. L. 106-65, §1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

Subsec. (c)(6). Pub. L. 106-65, §556(b), struck out “or to increase the number of personnel authorized by paragraph (4)” after “requirements of paragraph (3)” in introductory provisions and “or for the requested additional personnel and explain the need for the increase in the context of existing or projected similar capabilities at the local, State, and Federal levels” after “modification” in subpar. (A).

Subsec. (d). Pub. L. 106-65, §555(a)(1), (b)(3), redesignated subsec. (b) as (d) and inserted heading.

1998—Subsec. (c). Pub. L. 105-261 added subsec. (c).

1996—Subsec. (b). Pub. L. 104-201 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “To assure that a Reserve on duty under subsection (a) receives periodic refresher training in the categories for which he is qualified, the Secretary concerned may detail him to duty with any armed force, or otherwise as the Secretary sees fit.”

1994—Pub. L. 103-337, §1662(e)(2), renumbered section 678 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(c)(7), substituted “12301(d)” for “672(d)”.

Statutory Notes and Related Subsidiaries

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 this title.

ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS

Pub. L. 107-314, div. A, title XIV, §1403, Dec. 2, 2002, 116 Stat. 2676, as amended by Pub. L. 112-239, div. A, title XIV, §1435(a), Jan. 2, 2013, 126 Stat. 2051, provided that:

“(a) ESTABLISHMENT OF ADDITIONAL TEAMS.—The Secretary of Defense shall—

“(1) establish 23 additional teams designated as Weapons of Mass Destruction Civil Support Teams, for a total of 55 such teams; and

“(2) ensure that of such 55 teams, there is at least one team established in each State and territory.

“(b) ESTABLISHMENT OF FURTHER ADDITIONAL TEAMS.—The Secretary of Defense is authorized to have established two additional teams designated as Weapons of Mass Destruction Civil Support Teams, beyond the 55 teams required in subsection (a), if—

“(1) the Secretary of Defense has made the certification provided for in section 12310(c)(5) of title 10, United States Code, with respect to each of such additional teams before December 31, 2011; and

“(2) the establishment of such additional teams does not require an increase in authorized personnel levels above the numbers authorized as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112-239, approved Jan. 2, 2013].

“(c) LIMITATION OF ESTABLISHMENT OF FURTHER TEAMS.—No Weapons of Mass Destruction Civil Support Team may be established beyond the number authorized by subsections (a) and (b) unless—

“(1) the Secretary submits to Congress a request for authority to establish such team, including a detailed justification for its establishment; and

“(2) the establishment of such team is specifically authorized by a law enacted after the date of the en-

actment of the National Defense Authorization Act for Fiscal Year 2013.

“(d) NOTIFICATION OF DISESTABLISHMENT OF TEAMS.—No Weapons of Mass Destruction Civil Support Team established pursuant to this section may be disestablished unless, by not later than 90 days before the date on which such team is disestablished, the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of the proposed disestablishment of the team and the date on which the disestablishment is proposed to take place.

“(e) DEFINITIONS.—For purposes of this section:

“(1) The term ‘Weapons of Mass Destruction Civil Support Team’ means a team of members of the reserve components of the Armed Forces that is established under section 12310(c) of title 10, United States Code, in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.

“(2) The term ‘State and territory’ means each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.”

§ 12311. Active duty agreements

(a) To provide definite terms of active duty (other than for training) for Reserves with their consent, the Secretary concerned may make a standard written agreement with any member of a reserve component under his jurisdiction requiring the member to serve for a period of active duty (other than for training) of not more than five years. When such an agreement expires, a new one may be made. This subsection does not apply in time of war declared by Congress.

(b) An agreement may not be made under subsection (a) unless the specified period of duty is at least 12 months longer than any period of active duty that the member is otherwise required to perform.

(c) Agreements made under subsection (a) shall be uniform so far as practicable, and are subject to such standards and policies as may be prescribed by the Secretary of Defense for the armed forces under his jurisdiction or by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(d) If an agreement made under subsection (a) expires during a war or during a national emergency declared by Congress or the President after January 1, 1953, the Reserve concerned may be kept on active duty, without his consent, as otherwise prescribed by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 30, § 679; Pub. L. 96-513, title V, § 511(19), Dec. 12, 1980, 94 Stat. 2921; renumbered § 12311, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
679(a)	50:963(a) (less last sentence). 50:963(c). 50:963(f).	July 9, 1952, ch. 608, §§ 235 (less last sentence of (a), and less (b)), 236, 66 Stat. 491.
679(b)	50:963(d).	
679(c)	50:963(e).	
679(d)	50:964.	

In subsection (a), the words “To provide definite terms of active duty for” are substituted for the words

“In order that * * * may remain on or be ordered to active duty * * * for terms of service of definite duration”. The words “with their consent” are substituted for the word “voluntarily”. The words “requiring the member to serve” are substituted for 50:963(c). The words “more than” are substituted for the words “to exceed”. The second sentence is substituted for 50:963(a) (2d sentence). The word “hereafter” is omitted as surplusage. 50:963(f) is omitted as executed. The words “under his jurisdiction” are inserted for clarity.

In subsection (b), the words “is at least * * * longer” are substituted for the words “exceeds by at least”. The words “active duty that the member is otherwise required to perform” are substituted for the words “obligated or involuntary active duty to which he is otherwise liable”.

In subsection (c), the words “for the armed forces under his jurisdiction” are inserted for clarity.

Editorial Notes

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-296 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

1994—Pub. L. 103-337 renumbered section 679 of this title as this section.

1980—Subsec. (c). Pub. L. 96-513 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

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.

§ 12312. Active duty agreements: release from duty

(a) Each agreement made under section 12311(a) of this title shall provide that the member may not be released from active duty without his consent during the period of the agreement—

(1) because of a reduction in the actual personnel strength of the armed force concerned, unless the release is in accordance with the recommendation of a board of officers appointed by an authority designated by the Secretary concerned to determine the members to be released from active duty under regulations prescribed by the Secretary; or

(2) for any other reason, without an opportunity to be heard by a board of officers before the release, unless he is (A) dismissed or discharged under the sentence of a court-martial, (B) released because of an unexplained absence without leave for at least three months, (C) released because he is convicted and sentenced to confinement in a Federal or State penitentiary or correctional institution and the sentence has become final, or (D) released because he has been considered at least twice and has not been recommended for promotion to the next higher grade or because he is considered as having failed of selection for promotion to the next higher grade and has not been rec-