

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 681 of this title as this section.

§ 12314. Reserves: kinds of duty

Notwithstanding any other provision of law, a member of a reserve component who is on active duty other than for training may, under regulations prescribed by the Secretary concerned, be detailed or assigned to any duty authorized by law for members of the regular component of the armed force concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, § 682; renumbered § 12314, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
682	50:965.	July 9, 1952, ch. 608, § 237, 66 Stat. 492.

The words “armed force concerned” are substituted for the words “Armed Forces of the United States”. The words “now or hereafter” and “officers and enlisted” are omitted as surplusage. The words “other than for training” are inserted, since the words “active duty” were defined in the source statute cited above to exclude active duty for training.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 682 of this title as this section.

§ 12315. Reserves: duty with or without pay

(a) Subject to other provisions of this title, any Reserve may be ordered to active duty or other duty—

- (1) with the pay and allowances provided by law; or
- (2) with his consent, without pay.

Duty without pay shall be considered for all purposes as if it were duty with pay.

(b) A Reserve who is kept on active duty after his term of service expires is entitled to pay and allowances while on that duty, except as they may be forfeited under the approved sentence of a court-martial or by non-judicial punishment by a commanding officer or when he is otherwise in a non-pay status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, § 683; renumbered § 12315, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
683(a)	50:971.	July 9, 1952, ch. 608,
683(b)	50:972.	§§ 240, 241, 66 Stat. 492.

In subsection (a), the word “title” is substituted for the word “chapter”. The provisions of this title relating to active duty of reservists are based on the Armed Forces Reserve Act of 1952. The words “shall be considered * * * as if it were” are substituted for the words “shall be counted * * * the same as like”.

In subsections (a) and (b), the words “active duty for training” are omitted as covered by the words “active duty”.

In subsection (b), the word “kept” is substituted for the words “retained or continued”. The words “pursuant to law” are omitted as surplusage.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 683 of this title as this section.

§ 12316. Payment of certain Reserves while on duty

(a) Except as provided by subsection (c), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of the Reserve's earlier military service is entitled to retired or retainer pay, and who performs duty for which the Reserve is entitled to compensation, may elect to receive for that duty either—

- (1) the pay and allowances authorized by law for the duty that the Reserve is performing; or
- (2) if the Reserve specifically waives those payments, the retired or retainer pay to which the Reserve is entitled because of the Reserve's earlier military service.

(b) Except as provided by subsection (c), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of the Reserve's earlier military service is entitled to a pension or disability compensation, and who performs duty for which the Reserve is entitled to compensation, may elect to receive for that duty either—

- (1) the pension or disability compensation to which the Reserve is entitled because of the Reserve's earlier military service; or
- (2) if the Reserve specifically waives those payments, the pay and allowances authorized by law for the duty that the Reserve is performing.

(c) Unless the payments because of a Reserve's earlier military service are greater than the compensation prescribed by subsection (a)(1) or (b)(2), as applicable, a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of the Reserve's earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to perform that duty, ceases to be entitled to the payments because of the Reserve's earlier military service until the period of active duty ends. While on that active duty, the Reserve is entitled to the compensation prescribed by subsection (a)(1) or (b)(2), as applicable. Other rights and benefits of the Reserve or the Reserve's dependents are unaffected by this subsection.

(d) The Secretary of Defense shall prescribe regulations under which a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard may waive the pay and allowances authorized by law for the duty the Reserve is performing under subsection (a)(2) or (b)(2).

(Added Pub. L. 85-861, §1(15), Sept. 2, 1958, 72 Stat. 1441, § 684; amended Pub. L. 93-586, §1, Jan. 2, 1975, 88 Stat. 1920; renumbered § 12316, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994,