(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1015, §746; renumbered §3757, Pub. L. 115–282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 793 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96–322.

AMENDMENTS

2018—Pub. L. 115–282 renumbered section 746 of this title as this section.

CHAPTER 39—COAST GUARD AUXILIARY

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Editorial Notes

AMENDMENTS

2018—Pub. L. 115–282, title I, §119(a), Dec. 4, 2018, 132 Stat. 4236, inserted chapter 39 designation and heading and added items 3901 to 3913.

§ 3901. Administration of the Coast Guard Auxiliary

(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the ''Auxiliary headquarters unit''), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 3902, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

(1) Chapter 171 of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.

(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

(2) The Secretary may treat personal property of the auxiliary as property of the United States—

(A) for the purposes of—

(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

(ii) section 901 of this title; and

(B) as otherwise provided in this chapter.

(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

(4) In this subsection, the term ''personal property of the Auxiliary'' means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.

(Aug. 4, 1949, ch. 393, 63 Stat. 555, §821; Pub. L. 104–324, title IV, §401(a), Oct. 19, 1996, 110 Stat. 3922; Pub. L. 108–293, title II, §226, Aug. 9, 2004, 118 Stat. 1041; Pub. L. 109–304, §17(c), Oct. 6, 2006, 120 Stat. 1707; Pub. L. 114–120, title II, §209(14), Feb. 8, 2016, 130 Stat. 41; renumbered §3901 and amended Pub. L. 115–282, title I, §§119(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4236, 4240.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§260, 263 (Feb. 19, 1941, ch. 8, title I, §§1, 4, 55 Stat. 9, 10).

This section continues the Auxiliary, redefining it as a nonmilitary organization, and providing for its administration. 81st Congress, House Report No. 557.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–282, §119(b), renumbered section 821 of this title as this section.

Subsec. (b). Pub. L. 115–282, §123(b)(2), substituted ''section 3902'' for ''section 822'' in introductory provisions.

Subsec. (d)(2)(A)(ii). Pub. L. 115–282, §123(b)(2), substituted ''section 901'' for ''section 641''.

2016—Subsec. (b)(1). Pub. L. 114–120 substituted ''Chapter 171'' for ''Chapter 26''.

2006—Subsec. (b)(3) to (5). Pub. L. 109–304 added pars (3) to (5) and struck out former pars. (3) to (5) which read as follows:

''(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act).

''(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

''(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).''

2004—Subsec. (d). Pub. L. 108–293 added subsec. (d).

1996—Pub. L. 104–324 inserted ''of the Coast Guard Auxiliary'' after ''Administration'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The Coast Guard Auxiliary established on February 19, 1941, is a nonmilitary organization administered by the Commandant under the direction of the Secretary.''

Statutory Notes and Related Subsidiaries

USE OF COAST GUARD AUXILIARY

Pub. L. 99–640, § 9, Nov. 10, 1986, 100 Stat. 3548, required the Secretary of Transportation to investigate and submit to Congress a report within 1 year after Nov. 10, 1986, regarding the membership decline in the Coast Guard Auxiliary, its effect on the maritime community, and recommendations for legislative and administrative action to achieve and maintain the Coast Guard Auxiliary at its optimum strength.

§ 3902. Purpose of the Coast Guard Auxiliary

(a) IN GENERAL.—The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(b) LIMITATION.—The Auxiliary may conduct a patrol of a waterway, or a portion thereof, only if—

(1) the Commandant has determined such waterway, or portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard; or

(2) a State or other proper authority has requested such patrol pursuant to section 701 of this title or section 13109 of title 46.

(Aug. 4, 1949, ch. 393, 63 Stat. 555, § 822; Pub. L. 104–324, title IV, § 402(a), Oct. 19, 1996, 110 Stat. 3923; Pub. L. 114–120, title II, § 205(a), Feb. 8, 2016, 130 Stat. 36; renumbered § 3902 and amended Pub. L. 115–282, title I, §§ 119(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4236, 4240.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 261 (Feb. 19, 1941, ch. 8, title I, § 2, 55 Stat. 9; Sept. 30, 1944, ch. 453, § 1, 58 Stat. 759).

Changes were made in phraseology. 81st Congress, House Report No. 557.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–282, § 119(b), renumbered section 822 of this title as this section.

Subsec. (b)(2). Pub. L. 115–282, § 123(b)(2), substituted ''section 701'' for ''section 141''.

2016—Pub. L. 114–120 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1996—Pub. L. 104–324 inserted ''of the Coast Guard Auxiliary'' after ''Purpose'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The purpose of the Auxiliary is to assist the Coast Guard:

''(a) to promote safety and to effect rescues on and over the high seas and on navigable waters;

''(b) to promote efficiency in the operation of motorboats and yachts;

''(c) to foster a wider knowledge of, and better compliance with, the laws, rules, and regulations governing the operation of motorboats and yachts; and

''(d) to facilitate other operations of the Coast Guard.''

§ 3903. Eligibility; enrollments

The Auxiliary shall be composed of nationals of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), and aliens lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))—

(1) who—

(A) are owners, sole or part, of motorboats, yachts, aircraft, or radio stations; or

(B) by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary; and

(2) who may be enrolled therein pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555, § 823; Pub. L. 112–213, title II, § 215(a), Dec. 20, 2012, 126 Stat. 1555; renumbered § 3903, Pub. L. 115–282, title I, § 119(b), Dec. 4, 2018, 132 Stat. 4236.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 262, 351 (Feb. 19, 1941, ch. 8, title I, § 3, title III, § 301, 55 Stat. 9, 13; Oct. 26, 1942, ch. 628, 56 Stat. 990; Sept. 30, 1944, ch. 453, § 2, 58 Stat. 760).

All reference to the Philippine Islands is eliminated.

Changes were made in phraseology. 81st Congress, House Report No. 557.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–282 renumbered section 823 of this title as this section.

2012—Pub. L. 112–213 amended section generally. Prior to amendment, text read as follows: ''The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations or who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.''

§ 3904. Members of the Auxiliary; status

(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) Chapter 171 of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).