

1973—Pub. L. 93-43, §5(b), June 18, 1973, 87 Stat. 81, inserted “; plot allowance” in item 903 and added items 906 and 907.

### § 2301. Flags

(a) The Secretary shall furnish a flag to drape the casket of each—

(1) deceased veteran who—

(A) was a veteran of any war, or of service after January 31, 1955;

(B) had served at least one enlistment; or

(C) had been discharged or released from the active military, naval, air, or space service for a disability incurred or aggravated in line of duty; and

(2) deceased individual who at the time of death was entitled to retired pay under chapter 67<sup>1</sup> of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(b) After the burial of the veteran the flag so furnished shall be given to the veteran's next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

(c) For the purpose of this section, the term “Mexican border period” as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916.

(d) In the case of any person who died while in the active military, naval, air, or space service after May 27, 1941, the Secretary shall furnish a flag to the next of kin, or to such other person as the Secretary considers most appropriate, if such next of kin or other person is not otherwise entitled to receive a flag under this section or under section 1482(a) of title 10.

(e) The Secretary shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 2402(a)(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Secretary considers appropriate.

(f)(1) The Secretary shall furnish a flag to drape the casket of each deceased member or former member of the Selected Reserve (as described in section 10143 of title 10) who is not otherwise eligible for a flag under this section or section 1482(a) of title 10—

(A) who completed at least one enlistment as a member of the Selected Reserve or, in the case of an officer, completed the period of initial obligated service as a member of the Selected Reserve;

(B) who was discharged before completion of the person's initial enlistment as a member of the Selected Reserve or, in the case of an officer, period of initial obligated service as a member of the Selected Reserve, for a disability incurred or aggravated in line of duty; or

(C) who died while a member of the Selected Reserve.

(2) A flag may not be furnished under subparagraph (A) or (B) of paragraph (1) in the case of a person whose last discharge from service in the Armed Forces was under conditions less favorable than honorable.

(3) After the burial, a flag furnished under paragraph (1) shall be given to the next of kin or to such other person as the Secretary considers appropriate.

(g) A flag may not be furnished under this section in the case of a person described in section 2411(b) of this title.

(h)(1) The Secretary may not procure any flag for the purposes of this section that is not wholly produced in the United States.

(2)(A) The Secretary may waive the requirement of paragraph (1) if the Secretary determines—

(i) that the requirement cannot be reasonably met; or

(ii) that compliance with the requirement would not be in the national interest of the United States.

(B) The Secretary shall submit to Congress in writing notice of a determination under subparagraph (A) not later than 30 days after the date on which such determination is made.

(3) For the purpose of paragraph (1), a flag shall be considered to be wholly produced in the United States only if—

(A) the materials and components of the flag are entirely grown, manufactured, or created in the United States;

(B) the processing (including spinning, weaving, dyeing, and finishing) of such materials and components is entirely performed in the United States; and

(C) the manufacture and assembling of such materials and components into the flag is entirely performed in the United States.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169, §901; Pub. L. 87-240, Sept. 14, 1961, 75 Stat. 512; Pub. L. 89-358, §9, Mar. 3, 1966, 80 Stat. 28; Pub. L. 90-77, title IV, §402, Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-588, §9(g), Dec. 24, 1970, 84 Stat. 1585; Pub. L. 97-306, title IV, §402(a), Oct. 14, 1982, 96 Stat. 1442; Pub. L. 99-576, title VII, §701(50), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, §14(b)(20), June 13, 1991, 105 Stat. 284; renumbered §2301 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §11(a), Oct. 28, 1992, 106 Stat. 3644; Pub. L. 105-261, div. A, title V, §517, title X, §1073(a), Oct. 17, 1998, 112 Stat. 2009, 2137; Pub. L. 107-14, §3(a)(3), June 5, 2001, 115 Stat. 34; Pub. L. 107-330, title II, §201(b), Dec. 6, 2002, 116 Stat. 2823; Pub. L. 111-275, title V, §502(d)(2), Oct. 13, 2010, 124 Stat. 2883; Pub. L. 116-283, div. A, title IX, §926(a)(35), Jan. 1, 2021, 134 Stat. 3830.)

### Editorial Notes

#### REFERENCES IN TEXT

Chapter 67 of title 10, referred to in subsec. (a)(2), was transferred to part II of subtitle E of Title 10, Armed Forces, renumbered as chapter 1223, and amended generally by Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998. A new chapter 67 (§1331) of Title 10 was added by section 1662(j)(7) of Pub. L. 103-337.

<sup>1</sup> See References in Text note below.

## AMENDMENTS

2021—Subsecs. (a)(1)(C), (d). Pub. L. 116-283 substituted “air, or space service” for “or air service”.

2010—Subsec. (e). Pub. L. 111-275 substituted “section 2402(a)(6)” for “section 2402(6)”.

2002—Subsecs. (g), (h). Pub. L. 107-330 added subsec. (g) and redesignated former subsec. (g) as (h).

2001—Subsec. (f)(1). Pub. L. 107-14, §8(a)(3)(A), directed the substitution of “(as described in section” for “(as described in section” in introductory provisions, requiring no change in text.

Subsec. (f)(2). Pub. L. 107-14, §8(a)(3)(B), substituted “subparagraph” for “subparagraphs”.

1998—Subsec. (f). Pub. L. 105-261, §517, added subsec. (f).

Subsec. (g). Pub. L. 105-261, §1073(a), added subsec. (g). 1992—Subsec. (a). Pub. L. 102-547 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary shall furnish a flag to drape the casket of each deceased veteran who—

“(1) was a veteran of any war, or of service after January 31, 1955;

“(2) had served at least one enlistment; or

“(3) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty.”

1991—Pub. L. 102-83, §5(a), renumbered section 901 of this title as this section.

Subsec. (d). Pub. L. 102-54 substituted “considers” for “deems”, struck out comma after “this section”, and struck out “, United States Code” after “title 10”.

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “2402(6)” for “1002(6)”.

1989—Subsecs. (a), (d), (e). Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1986—Subsec. (b). Pub. L. 99-576 substituted “the veteran’s” for “his”.

1982—Subsec. (e). Pub. L. 97-306 added subsec. (e).

1970—Subsec. (a). Pub. L. 91-588, §9(g)(1), struck out reference to the Mexican border service.

Subsec. (c). Pub. L. 91-588, §9(g)(2), substituted “For the purpose of this section, the term ‘Mexican border period’ as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916” for “For the purpose of this section, the term ‘Mexican border service’ means active military, naval, or air service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto”.

1967—Subsec. (d). Pub. L. 90-77 added subsec. (d).

1966—Subsec. (a)(1). Pub. L. 89-358 required a flag to be furnished to drape the casket of a deceased veteran who served after Jan. 31, 1955.

1961—Subsec. (a). Pub. L. 87-240, §1(1), inserted “or of Mexican border service” after “veteran of any war”.

Subsec. (c). Pub. L. 87-240, §1(2), added subsec. (c).

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-275 applicable with respect to the death, on or after Oct. 13, 2010, of the parent of a person described in section 2402(a)(9)(B) of this title, who dies on or after October 7, 2001, see section 502(e) of Pub. L. 111-275, set out as a note under section 107 of this title.

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-330 applicable with respect to deaths occurring on or after Dec. 6, 2002, see section 201(d) of Pub. L. 107-330, set out as a note under section 112 of this title.

## EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title X, §1073(b), Oct. 17, 1998, 112 Stat. 2138, provided that: “Subsection (g) of section 2301 of title 38, United States Code, as added by sub-

section (a), shall apply to flags procured by the Secretary of Veterans Affairs for the purposes of section 2301 of title 38, United States Code, after the end of the 30-day period beginning on the date of the enactment of this Act [Oct. 17, 1998].”

## EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-306, title IV, §402(b), Oct. 14, 1982, 96 Stat. 1443, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to burials after September 30, 1982.”

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as a note under section 1521 of this title.

## EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

## [§ 2302. Repealed. Pub. L. 116-315, title II, § 2202(a)(2), Jan. 5, 2021, 134 Stat. 4984]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169, §902; Pub. L. 88-359, July 7, 1964, 78 Stat. 296; Pub. L. 89-360, Mar. 7, 1966, 80 Stat. 29; Pub. L. 95-476, title II, §203(b), Oct. 18, 1978, 92 Stat. 1506; Pub. L. 95-479, title III, §303(a), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 97-35, title XX, §2001(a)(1), Aug. 13, 1981, 95 Stat. 781; Pub. L. 97-306, title IV, §403(a), Oct. 14, 1982, 96 Stat. 1443; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §2302, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 112-260, title I, §104(b)(1), Jan. 10, 2013, 126 Stat. 2420, authorized funeral expenses for a deceased veteran.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF REPEAL

Repeal of section applicable to deaths that occur on or after the date that is two years after Jan. 5, 2021, see section 2202(d) of Pub. L. 116-315, set out as an Effective Date of 2021 Amendment note under section 113 of this title.

## § 2303. Death from non-service-connected disability; plot allowance

(a)(1) When a veteran described in paragraph (2) dies, the Secretary shall—

(A) pay the actual cost (not to exceed \$700 (as increased from time to time under subsection (c))) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Department; and

(B) when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

(2) A veteran described in this paragraph is a deceased veteran who is not covered by section 2307 of this title and who meets any of the following criteria:

(A) The deceased veteran dies in—

(i) a facility of the Department (as defined in section 1701(3) of this title) to which the deceased veteran was properly admitted for hospital, nursing home, or domiciliary care under section 1710 or 1711(a) of this title; or

(ii) an institution at which the deceased veteran was, at the time of death, receiving—