

§ 123a**TITLE 10—ARMED FORCES**

8376, 8377, 8378, 8379, 8380, 8381, 8392, 8393, 8819, 8843, 8844, 8845, 8846, 8848, 8850, 8851, 8852, 8853, and 8855.

(b) If a provision is so suspended, the Secretary of Defense shall, before the end of that suspension, recommend to Congress legislation necessary to adjust the grades of reserve commissioned officers other than commissioned warrant officers. So far as practicable, this legislation shall be the same as that recommended for adjusting the grades of officers of the regular component of the armed force concerned.

(Added Pub. L. 85-861, §1(2)(A), Sept. 2, 1958, 72 Stat. 1437; amended Pub. L. 86-559, §1(1), June 30, 1960, 74 Stat. 264; Pub. L. 89-718, §1, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90-130, §1(1), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96-513, title V, §§501(3), 511(1), Dec. 12, 1980, 94 Stat. 2907, 2920; Pub. L. 97-22, §10(b)(1), July 10, 1981, 95 Stat. 137; Pub. L. 103-337, div. A, title XVI, §1622(a), Oct. 5, 1994, 108 Stat. 2961.)

AMENDMENT OF SECTION

Pub. L. 103-337, div. A, title XVI, §§1622(a), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2961, 3026, provided that, effective Oct. 1, 1996, this section is amended to read as follows:

§123. Authority to suspend officer personnel laws during war or national emergency

(a) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

(b) Any such suspension 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 the termination of the emergency.

(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
123	50:1199 (less applicability to National Guard).	Sept. 3, 1954, ch. 1257, §209 (less applicability to National Guard), 68 Stat. 1152.

In subsection (b), the words "the same as" are substituted for the word "comparable", since any nec-

essary differences in the recommended legislation between Reserves and Regulars are fully taken account of in the words "So far as practicable".

REFERENCES IN TEXT

Section 281 of this title, referred to in subsec. (a), was repealed by Pub. L. 103-337, div. A, title XVI, §1661(a)(2)(A), Oct. 5, 1994, 108 Stat. 2979. See section 10214 of this title.

Section 592 of this title, referred to in subsec. (a), was renumbered section 12202 of this title by Pub. L. 103-337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990.

Sections 1002, 1005, 1006, and 1007 of this title, referred to in subsec. (a), were renumbered sections 12642, 12645, 12646, and 12647 of this title, respectively, by Pub. L. 103-337, div. A, title XVI, §1662(h)(2), Oct. 5, 1994, 108 Stat. 2996.

Section 1374 of this title, referred to in subsec. (a), was repealed by Pub. L. 103-337, div. A, title XVI, §1662(k)(2), Oct. 5, 1994, 108 Stat. 3006. See sections 12771, 12772, and 12773 of this title.

Sections 3217, 3218, 3219, 3220, 5414, 5457, 5458, 8217, 8218, and 8219 of this title, referred to in subsec. (a), were repealed by Pub. L. 103-337, div. A, title XVI, §1662(a)(3), Oct. 5, 1994, 108 Stat. 2988. See sections 12003 to 12005 and 12007 of this title.

Section 3352 of this title, referred to in subsec. (a), was renumbered section 12213 of this title by Pub. L. 103-337, div. A, title XVI, §1662(c)(3), Oct. 5, 1994, 108 Stat. 2990.

Section 5506 of this title, referred to in subsec. (a), was repealed by Pub. L. 103-337, div. A, title XVI, §1673(d)(1), Oct. 5, 1994, 108 Stat. 3016.

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-22 struck out references to sections 3494 and 8494.

1980—Subsec. (a). Pub. L. 96-513 struck out references to sections 3571, 3847, 5867, 8370, 8571, and 8847.

1967—Subsec. (a). Pub. L. 90-130 struck out reference to section 3391.

1966—Subsec. (a). Pub. L. 89-718 struck out reference to section 5907.

1960—Subsec. (a). Pub. L. 86-559 inserted references to sections 281, 3855, and 8855 and struck out references to sections 3841, 3842, 3849, 8841, 8842, and 8849.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 10(b) of Pub. L. 97-22 provided that the amendment made by that section is effective Sept. 15, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 501(3) of Pub. L. 96-513, striking out references to sections 3571, 5867, and 8571, effective Sept. 15, 1981, and amendment by section 511(1) of Pub. L. 96-513, striking out references to sections 3847, 8370, and 8847, effective Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(1) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

§123a. Suspension of end-strength limitations in time of war or national emergency

If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength

limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year.

(Added Pub. L. 101-510, div. A, title XIV, §1483(b)(1), Nov. 5, 1990, 104 Stat. 1715.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(4) of this title, prior to repeal by Pub. L. 101-510, §1483(a).

§ 123b. Forces stationed abroad: limitation on number

(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.

(Added Pub. L. 103-337, div. A, title XIII, §1312(a)(1), Oct. 5, 1994, 108 Stat. 2894.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102-484, div. A, title XIII, §1302, Oct. 23, 1992, 106 Stat. 2545, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 103-337, §1312(c).

EFFECTIVE DATE

Section 1312(b) of Pub. L. 103-337 provided that: “Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.”

§ 124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

(a) LEAD AGENCY.—(1) The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) The responsibility conferred by paragraph (1) shall be carried out in support of the counter-drug activities of Federal, State, local, and foreign law enforcement agencies.

(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) UNITED STATES DEFINED.—In this section, the term “United States” means the land area of the several States and any territory, commonwealth, or possession of the United States.

(Added Pub. L. 101-189, div. A, title XII, §1202(a)(1), Nov. 29, 1989, 103 Stat. 1563; amended Pub. L. 102-190, div. A, title X, §1088(b), Dec. 5, 1991, 105 Stat. 1485.)

PRIOR PROVISIONS

A prior section 124, added Pub. L. 87-651, title II, §201(a), Sept. 7, 1962, 76 Stat. 514; amended Pub. L. 98-525, title XIII, §1301(a), Oct. 19, 1984, 98 Stat. 2611; Pub. L. 99-145, title XIII, §1303(a)(1), Nov. 8, 1985, 99 Stat. 738, related to establishment, composition, and functions of combatant commands, prior to repeal by Pub. L. 99-433, §211(c)(1). See section 161 et seq. of this title. Similar provisions were contained in Pub. L. 100-456, div. A, title XI, §1102, Sept. 29, 1988, 102 Stat. 2042, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 101-189, §1202(b).

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-190 designated existing provisions as par. (1) and added par. (2).

COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN

Pub. L. 102-484, div. A, title X, §1043, Oct. 23, 1992, 106 Stat. 2492, provided that:

“(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

“(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

“(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

“(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

“(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

“(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall—

“(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

“(2) determine the optimal and most cost-effective combination of use of counter-drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

“(c) SYSTEMS PLAN.—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring