

(Added Pub. L. 100-180, div. A, title III, §311(a)(1), Dec. 4, 1987, 101 Stat. 1073.)

#### REGULATIONS DEADLINE

Section 311(b) of Pub. L. 100-180 directed Secretary of Defense to prescribe regulations to implement this section not later than 90 days after Dec. 4, 1987.

### § 2489a. Sale or rental of sexually explicit material prohibited

(a) PROHIBITION OF SALE OR RENTAL.—The Secretary of Defense may not permit the sale or rental of sexually explicit material on property under the jurisdiction of the Department of Defense.

(b) PROHIBITION OF OFFICIALLY PROVIDED SEXUALLY EXPLICIT MATERIAL.—A member of the armed forces or a civilian officer or employee of the Department of Defense acting in an official capacity may not provide for sale, remuneration, or rental sexually explicit material to another person.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

(d) DEFINITIONS.—In this section:

(1) The term “sexually explicit material” means an audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium, the dominant theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.

(2) The term “property under the jurisdiction of the Department of Defense” includes commissaries, all facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps exchanges, and ships’ stores.

(Added Pub. L. 104-201, div. A, title III, §343(a)(1), Sept. 23, 1996, 110 Stat. 2489.)

#### EFFECTIVE DATE

Section 343(b) of Pub. L. 104-201 provided that: “Subsection (a) of section 2489a of title 10, United States Code, as added by subsection (a) of this section, shall take effect 90 days after the date of the enactment of this Act [Sept. 23, 1996].”

### [§ 2490. Renumbered § 2868]

### § 2490a. Combined exchange and commissary stores

(a) AUTHORITY.—The Secretary of Defense may authorize a nonappropriated fund instrumentality to operate a military exchange and a commissary store as a combined exchange and commissary store on a military installation.

(b) LIMITATIONS.—(1) Not more than ten combined exchange and commissary stores may be operated pursuant to this section.

(2) The Secretary may select a military installation for the operation of a combined exchange and commissary store under this section only if—

(A) the installation is to be closed, or has been or is to be realigned, under a base closure law; or

(B) a military exchange and a commissary store are operated at the installation by sepa-

rate entities at the time of, or immediately before, such selection and it is not economically feasible to continue that separate operation.

(c) OPERATION AT CARSWELL FIELD.—Combined exchange and commissary stores operated under this section shall include the combined exchange and commissary store that is operated at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field, Texas, under the authority provided in section 375 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2736).

(d) ADJUSTMENTS AND SURCHARGES.—Adjustments to, and surcharges on, the sales price of a grocery food item sold in a combined exchange and commissary store under this section shall be provided for in accordance with the same laws that govern such adjustments and surcharges for items sold in a commissary store of the Defense Commissary Agency.

(e) USE OF APPROPRIATED FUNDS.—(1) If a nonappropriated fund instrumentality incurs a loss in operating a combined exchange and commissary store at a military installation under this section as a result of the requirement set forth in subsection (d), the Secretary may authorize a transfer of funds available for the Defense Commissary Agency to the nonappropriated fund instrumentality to offset the loss.

(2) The total amount of appropriated funds transferred during a fiscal year to support the operation of a combined exchange and commissary store at a military installation under this section may not exceed an amount that is equal to 25 percent of the amount of appropriated funds that was provided for the operation of the commissary store of the Defense Commissary Agency on that installation during the last full fiscal year of operation of that commissary store.

(f) DEFINITIONS.—In this section:

(1) The term “nonappropriated fund instrumentality” means the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

(2) The term “base closure law” has the meaning given such term by section 2667(h) of this title.

(Added Pub. L. 104-106, div. A, title III, §336(a)(1), Feb. 10, 1996, 110 Stat. 263; amended Pub. L. 105-85, div. A, title X, §1061(d), Nov. 18, 1997, 111 Stat. 1891.)

#### REFERENCES IN TEXT

Section 375 of the National Defense Authorization Act for Fiscal Year 1995, referred to in subsec. (c), is section 375 of Pub. L. 103-337, div. A, title III, Oct. 5, 1994, 108 Stat. 2736, as amended, which is not classified to the Code.

#### AMENDMENTS

1997—Subsec. (f)(2). Pub. L. 105-85 substituted “section 2667(h)” for “section 2667(g)”.

#### PRIOR PROVISIONS

A prior section 2490a was renumbered section 2783 of this title.