CHAPTER 1209—ACTIVE DUTY  

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AMENDMENTS  

§ 12301. Reserve components generally  
(a) In time of war or of national emergency declared by Congress, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of a reserve component under the jurisdiction of that Secretary to active duty for the duration of the war or emergency and for six months thereafter. However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.  
(b) At any time, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, in an active status in a reserve component under the jurisdiction of that Secretary to active duty for not more than 15 days a year. However, units and members of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the Governor of the State (or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard).  
(c) So far as practicable, during any expansion of the active armed forces that requires that units and members of the reserve components be ordered to active duty as provided in subsection (a), members of units organized and trained to serve as units who are ordered to that duty without their consent shall be so ordered with their units. However, members of those units may be reassigned after being so ordered to active duty.  
(d) At any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the Governor or other appropriate authority of the State concerned.  
(e) The period of time allowed between the date when a Reserve ordered to active duty as provided in subsection (a) is alerted for that duty and the date when the Reserve is required to enter upon that duty shall be determined by the Secretary concerned based upon military requirements at that time.  
(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.  
(g)(1) A member of a reserve component may be ordered to active duty without his consent if the Secretary concerned determines that the member is in a captive status. A member ordered to active duty under this section may not be retained on active duty, without his consent, for more than 30 days after his captive status is terminated.  
(2) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly among the armed forces under the jurisdiction of the Secretary. A determination for the purposes of this subsection that a member is in a captive status shall be made pursuant to such regulations.  
(3) In this section, the term “captive status” means the status of a member of the armed forces who is in a missing status (as defined in section 551(2) of title 37) which occurs as the result of a hostile action and is related to the member’s military status.  
(h)(1) When authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty—  
(A) to receive authorized medical care;  
(B) to be medically evaluated for disability or other purposes; or
(C) to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member.

(2) A member ordered to active duty under this subsection may, with the member’s consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law.

(3) A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to active duty under this subsection only with the consent of the Governor or other appropriate authority of the State concerned.


HISTORICAL AND REVISION NOTES

1956 ACT

Revised section Source (U.S. Code) Source (Statutes at Large)
672(b) .... 50:961(b).
672(c) .... 50:961(c).
672(d) .... 50:961(d).
672(e) .... 50:961(e).
672(f) .... 50:961(f).
672(g) .... 50:961(g).
672(h) .... 50:961(h).
672(i) .... 50:961(i).
672(j) .... 50:961(j).
672(k) .... 50:961(k).
672(l) .... 50:961(l).
672(m) .... 50:961(m).
672(n) .... 50:961(n).
672(o) .... 50:961(o).
672(p) .... 50:961(p).
672(q) .... 50:961(q).
672(r) .... 50:961(r).
672(s) .... 50:961(s).
672(t) .... 50:961(t).
672(u) .... 50:961(u).
672(v) .... 50:961(v).
672(w) .... 50:961(w).
672(x) .... 50:961(x).
672(y) .... 50:961(y).
672(z) .... 50:961(z).

In subsection (a), the word “hereafter” is omitted as surplusage. The words “there are not enough . . . who are” are substituted for the words “adequate numbers of . . . are not”. The words “without the consent of the persons affected” and “under the jurisdiction of that Secretary” are inserted for clarity.

The word “hereafter” is omitted as surplusage. The words “there are not enough . . . who are” are substituted for the words “adequate numbers of . . . are not”. The words “without the consent of the persons affected” and “under the jurisdiction of that Secretary” are inserted for clarity.

The changes are necessary to reflect section 101(b) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 901(b)), which defines the term “active duty” to exclude active duty for training. This definition applied to the source law for these sections [sections 672 and 673], section 233(a), (b)(1), and (c) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 961(a), (b)(1), (c)).

CODIFICATION


AMENDMENTS

2004—Subsec. (a). Pub. L. 108–375, §514(a)(1), struck out “(other than for training)” after “that Secretary to active duty”.

Subsec. (c). Pub. L. 108–375, §514(a)(2), substituted “as provided in subsection (a)” for “(other than for training)” and “so ordered to active duty” for “ordered to active duty (other than for training)”.

Subsec. (e). Pub. L. 108–375, §514(a)(3), substituted “as provided in subsection (a)” for “(other than for training)”.


1994—Pub. L. 103–337, §1675(c)(1)(A), substituted “or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard” for “or Territory or Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be”.

Subsec. (d). Pub. L. 103–337, §1675(c)(1)(B), struck out “or Territory, Puerto Rico, or the District of Columbia, whichever is” after “authority of the State”.

1988—Subsec. (b). Pub. L. 100–456, §1234(a)(2), substituted “or Puerto Rico” for “or Territory, Puerto Rico, or the Canal Zone”.

Subsec. (d). Pub. L. 100–456, §1234(a)(1), struck out “the Canal Zone” after “Puerto Rico.”


1985—Subsec. (a). Pub. L. 96–357 struck out cl. (1) designation for second sentence and cl. (2) prohibition against ordering a member of the Standby Reserve to active duty unless the Director of Selective Service determined that the member was available for active duty.

Subsec. (e). Pub. L. 96–584 substituted provisions respecting determination of the allowable time in terms of military requirements for provisions authorizing a reasonable time.


Substituted “inactive National Guard” for “inactive Army National Guard or in the inactive Air National Guard”, and inserted provisions prohibiting a member
of the Standby Reserve from being ordered to active duty under this subsection unless the Director of Selective Service determines that the member is available for active duty.

Subsec. (c). Pub. L. 85–861, §33(a)(5), inserted "(other than for training)" after "active duty".

Effective Date of 1994 Amendment
Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

Effective Date of 1986 Amendment
Section 524(b) of Pub. L. 99–661 provided that: "Section 672(g) [now 12301(g)] of title 10, United States Code, as added by subsection (a), does not authorize a member of a reserve component to be ordered to active duty for a period before the date of the enactment of this Act [Nov. 14, 1986]."

Effective Date of 1958 Amendment
Amendment by section 33(a)(5) of Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 1001 of this title.


Advance Notice to Members of Reserve Components of Deployment in Support of Contingency Operations

"(a) Advance Notice Required.—The Secretary of a military department shall ensure that a member of a reserve component under the jurisdiction of that Secretary who will be called or ordered to active duty for a period of more than 30 days in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) receives notice in advance of the mobilization date. In so far as is practicable, the notice shall be provided not less than 30 days before the mobilization date, but with a goal of 90 days before the mobilization date.

(b) Reduction or Waiver of Notice Requirement.—The Secretary of Defense may waive the requirement of subsection (a), or authorize shorter notice than the minimum specified in such subsection, during a war or national emergency declared by the President or Congress or to meet mission requirements. If the waiver or reduction is made on account of mission requirements, the Secretary shall submit to Congress a report detailing the reasons for the waiver or reduction and the mission requirements at issue.

§ 12302. Ready Reserve

(a) In time of national emergency declared by the President after January 1, 1953, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons concerned, order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve under the jurisdiction of that Secretary to active duty for not more than 24 consecutive months.

(b) To achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to—

(1) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

(2) family responsibilities; and

(3) employment necessary to maintain the national health, safety, or interest.

The Secretary of Defense shall prescribe such policies and procedures as he considers necessary to carry out this subsection. He shall report on those policies and procedures at least once a year to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(c) Not more than 1,000,000 members of the Ready Reserve may be on active duty, without their consent, under this section at any one time.


Historical and Revision Notes
1956 Act

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<tr>
<th>Revised section</th>
<th>Source (U.S. Code)</th>
<th>Source (Statutes at Large)</th>
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<tr>
<td>673(b)</td>
<td>50:5961(b)(2)</td>
<td>§23(b); 66 Stat. 489.</td>
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</table>

In subsection (a), the words "after January 1, 1953" are substituted for the word "hereafter", to reflect the effective date of the source statute. The words "without the consent of the persons concerned" are substituted for the word "involuntarily".

The words "under the jurisdiction of that Secretary" are inserted for clarity. The last sentence of the revised subsection is substituted for 50:5961(b) (proviso). The words "and the members thereof" and "and required to perform" are omitted as surplusage.

In subsection (b), the words "to achieve" are substituted for the words "in the interest of". The words "without their consent" are substituted for the word "involuntarily".

The words "who are being considered for" are inserted for clarity. The words "will" and "shall" are substituted for the words "may". The words "promulgate such policies and establish such procedures" are deleted. The words "as he considers necessary" are substituted for the words "as may be required in his opinion".

The words "this subsection" are substituted for the words "our intent here declared". The words "at least once a year" are substituted for the words "from time to time, and at least annually".

1958 Act

<table>
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<tr>
<td>673(a)</td>
<td>50:5961(b)(1) (less proviso)</td>
<td>Aug. 9, 1955, ch. 665, §2(f).</td>
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<tr>
<td>673(b)</td>
<td>50:5961(b)(1) (proviso)</td>
<td>69 Stat. 589.</td>
</tr>
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</table>

In subsection (c), the words "on active duty (other than for training)" are substituted for the words "may