§ 3202. Definitions

For the purposes of this chapter—

(1)(A) The term ''eligible veteran'' means any veteran who is not eligible for educational assistance under chapter 34 of this title and who (i) entered military service on or after January 1, 1977, and before July 1, 1985, served on active duty for a period of more than 180 days commencing on or after January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable, or (ii) entered military service on or after January 1, 1977, and before July 1, 1985, and was discharged or released from active duty after January 1, 1977, for a service-connected disability.

(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived in the case of any participant who has completed his or her first obligated period of active duty (which began after December 31, 1976) or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(C) For the purposes of subparagraphs (A) and (B), the term ''active duty'' does not include any period during which an individual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d)[1] of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(D)(i) The requirement of ineligibility for educational assistance under chapter 34 of this title, prescribed in subparagraph (A), shall be waived in the case of a veteran described in division (ii) of this subparagraph who elects to receive benefits under this chapter instead of assistance under such chapter 34. A veteran who makes such an election shall be ineligible for assistance under such chapter. Such an election is irrevocable.

(ii) A veteran referred to in division (i) of this subparagraph is a veteran who before January 1, 1977, performed military service described in subparagraph (C)(iii), is entitled under section 3452(a)(3)(C) of this title to have such service considered to be ''active duty'' for the purposes of chapter 34 of this title, and is eligible for assistance under such chapter only by reason of having such service considered to be active duty.

(2) The term ''program of education''—

(A) has the meaning given such term in section 3452(b) of this title, and

(B) includes (i) a full-time program of apprenticeship or other on-job training approved as provided in clause (1) or (2), as appropriate, of section 3687(a) of this title, and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 3482(a)(2) of this title).

(3) The term ''participant'' is a person who is participating in the educational benefits program established under this chapter.

(4) The term ''educational institution'' has the meaning given such term in section 3452(c) of this title.

(5) The term ''training establishment'' has the meaning given such term in section 3452(e) of this title.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2394, § 1602; amended Pub. L. 96–466, title IV, § 401, Oct. 17, 1980, 94 Stat. 2201; Pub. L. 98–223, title II, § 203(a), Mar. 2, 1984, 98 Stat. 41; Pub. L. 99–576, title III, §§ 309(a)(2), 310(a), Oct. 28, 1986, 100 Stat. 3270, 3271; Pub. L. 100–689, title I, § 108(b)(1), Nov. 18, 1988, 102 Stat. 4169; Pub. L. 102–54, § 14(c)(6), June 13, 1991, 105 Stat. 285; renumbered § 3202 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 109–163, div. A, title V, § 515(e)(3), Jan. 6, 2006, 119 Stat. 3236.)

REFERENCES IN TEXT

Section 511 of title 10, referred to in par. (1)(C)(iii), was renumbered section 12103 of Title 10, Armed Forces, by Pub. L. 103–337, div. A, title XVI, § 1662(b)(2), Oct. 5, 1994, 108 Stat. 2989.

PRIOR PROVISIONS

Prior sections 3202 to 3205 were renumbered sections 5502 to 5505 of this title, respectively, and section 5505 was subsequently repealed by Pub. L. 103–446, title XII, § 1201(g)(4)(A), Nov. 2, 1994, 108 Stat. 4687.

AMENDMENTS

2006—Par. (1)(C)(iii). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1602 of this title as this section.

Par. (1)(A). Pub. L. 102–54 inserted comma after last reference to ''1977''.

Par. (1)(D)(ii). Pub. L. 102–83, § 5(c)(1), substituted ''3452(a)(3)(C)'' for ''1652(a)(3)(C)''.

Par. (2). Pub. L. 102–83, § 5(c)(1), substituted ''3452(b)'' for ''1652(b)'' in subpar. (A) and ''3687(a)'' for ''1787(a)'' and ''3482(a)(2)'' for ''1682(a)(2)'' in subpar. (B).

Pars. (4), (5). Pub. L. 102–83, § 5(c)(1), substituted ''3452(c)'' for ''1652(c)'' in par. (4) and ''3452(e)'' for ''1652(e)'' in par. (5).

1988—Par. (2)(B). Pub. L. 100–689 inserted designation ''(i)'' after ''includes'' and added cl. (ii).

1986—Par. (1)(A). Pub. L. 99–576, § 309(a)(2), inserted ''and before July 1, 1985,'' in two places and substituted ''commencing on or after January 1, 1977'' for ''commencing on or after such date'' and ''released from active duty after January 1, 1977'' for ''released from active duty after such date''.

Par. (2). Pub. L. 99–576, § 310(a)(1), added par. (2) and struck out former par. (2) which read as follows: ''The terms 'program of education' and 'educational institution' shall have the same meaning ascribed to them in sections 1652(b) and 1652(c), respectively, of this title.''

Pars. (4), (5). Pub. L. 99–576, § 310(a)(2), added pars. (4) and (5).

1984—Par. (1)(D). Pub. L. 98–223 added subpar. (D).

1980—Par. (1)(A). Pub. L. 96–466 inserted ''who is not eligible for educational assistance under chapter 34 of this title and'' after ''any veteran'' and struck out ''initially'' before ''entered military service'' in two places.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–689 effective Jan. 1, 1989, see section 108(c) of Pub. L. 100–689, set out as a note under section 3002 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(d)(1) of Pub. L. 96–466 provided that: ''The amendments made by section 401 [amending this section] shall take effect as of January 1, 1977.''

[1] See References in Text note below.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ENROLLMENT IN PROGRAM BEFORE APRIL 1, 1987

For provisions for continued eligibility for enrollment in the program established by this chapter until Apr. 1, 1987, of individuals on active duty in the Armed Forces who were eligible therefor on June 30, 1985, and requiring notice of such continued eligibility to affected individuals, see section 309(c), (d) of Pub. L. 99–576, set out as a note under section 3201 of this title.

SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

§ 3221. Eligibility

(a) Each person entering military service on or after January 1, 1977, and before July 1, 1985, shall have the right to enroll in the educational benefits program provided by this chapter (hereinafter in this chapter referred to as the ''program'' except where the text indicates otherwise) at any time during such person's service on active duty before July 1, 1985. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation.

(b) The requirement for 12 consecutive months of participation required by subsection (a) of this section shall not apply when (1) the participant suspends participation or disenrolls from the program because of personal hardship as defined in regulations issued jointly by the Secretary and the Secretary of Defense, or (2) the participant is discharged or released from active duty.

(c) A participant shall be permitted to suspend participation or disenroll from the program at the end of any 12-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed by regulations issued jointly by the Secretary and the Secretary of Defense.

(d) If a participant disenrolls from the program, such participant forfeits any entitlement to benefits under the program except as provided in subsection (e) of this section. A participant who disenrolls from the program is eligible for a refund of such participant's contributions as provided in section 3223 of this title.

(e) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed jointly by the Secretary and the Secretary of Defense.

(f) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) the program to which such service is to be credited.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2394, § 1621; amended Pub. L. 99–576, title III, § 309(a)(3), Oct. 28, 1986, 100 Stat. 3270; Pub. L. 101–237, title IV, §§ 410, 423(b)(1)(A), (4)(A), (6), Dec. 18, 1989, 103 Stat. 2084, 2092, 2093; renumbered § 3221 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1621 of this title as this section.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''3223'' for ''1623''.

1989—Subsec. (b)(1). Pub. L. 101–237, § 423(b)(1)(A), (4)(A), substituted ''Secretary'' for ''Administrator'' after ''jointly by the'' and struck out ''(hereinafter in this chapter referred to as the 'Secretary')'' after ''Secretary of Defense''.

Subsecs. (c), (e). Pub. L. 101–237, § 423(b)(1)(A), (4)(A), substituted ''Secretary'' for ''Administrator'' after ''jointly by the'' and inserted ''of Defense'' after ''Secretary'' at end.

Subsec. (f). Pub. L. 101–237, § 410, added subsec. (f).

1986—Subsec. (a). Pub. L. 99–576 inserted ''and before July 1, 1985,'' and ''before July 1, 1985'' in first sentence.

ENROLLMENT IN PROGRAM BEFORE APRIL 1, 1987

For provisions for continued eligibility for enrollment in the program established by this chapter until Apr. 1, 1987, of individuals on active duty in the Armed Forces who were eligible therefor on June 30, 1985, and requiring notice of such continued eligibility to affected individuals, see section 309(c), (d) of Pub. L. 99–576, set out as a note under section 3201 of this title.

SUSPENSION OF RIGHT TO ENROLL IN POST-VIETNAM ERA PROGRAM

Pub. L. 98–525, title VII, § 704, Oct. 19, 1984, 98 Stat. 2564, which provided that no individual on active duty in the Armed Forces could initially enroll in the educational assistance program provided for in this chapter during the period beginning on July 1, 1985, and ending on June 30, 1988, was repealed by Pub. L. 99–576, title III, § 309(b), Oct. 28, 1986, 100 Stat. 3270.

NEW ENROLLMENTS IN EDUCATIONAL ASSISTANCE PROGRAM AFTER DECEMBER 31, 1981, PRESIDENTIAL RECOMMENDATION TO CONGRESS

Section 408 of Pub. L. 94–502 provided that:

''(a)(1) No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code (as added by section 404 of this Act) after December 31, 1981, unless—

''(A) before June 1, 1981, the President submits to both Houses of Congress a written recommendation that such program continue to be open for new enrollments; and

''(B) before the close of the 60-day period after the day on which the President submits to Congress the recommendation described in subparagraph (A), neither the House of Representatives nor the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution which in substance disapproves such recommendation.

''(2) For purposes of computing the 60-day period referred to in paragraph (1)(B), there shall be excluded—

''(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

''(B) any Saturday and Sunday, not excluded under the preceding subparagraph, when either House is not in session.

The recommendation referred to in paragraph (1)(A) shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session