

§ 688. Retired members: authority to order to active duty; duties

(a) **AUTHORITY.**—Under regulations prescribed by the Secretary of Defense, a member described in subsection (b) may be ordered to active duty by the Secretary of the military department concerned at any time.

(b) **COVERED MEMBERS.**—Except as provided in subsection (d), subsection (a) applies to the following members of the armed forces:

(1) A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps.

(2) A member of the Retired Reserve who was retired under section 1293, 3911, 3914, 6323, 8911, or 8914 of this title.

(3) A member of the Fleet Reserve or Fleet Marine Corps Reserve.

(c) **DUTIES OF MEMBER ORDERED TO ACTIVE DUTY.**—The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

(d) **EXCLUSION OF OFFICERS RETIRED ON SELECTIVE EARLY RETIREMENT BASIS.**—The following officers may not be ordered to active duty under this section:

(1) An officer who retired under section 638 of this title.

(2) An officer who—

(A) after having been notified that the officer was to be considered for early retirement under section 638 of this title by a board convened under section 611(b) of this title and before being considered by that board, requested retirement under section 3911, 6323, or 8911 of this title; and

(B) was retired pursuant to that request.

(e) **LIMITATION OF PERIOD OF RECALL SERVICE.**—(1) A member ordered to active duty under subsection (a) may not serve on active duty pursuant to orders under that subsection for more than 12 months within the 24 months following the first day of the active duty to which ordered under that subsection.

(2) Paragraph (1) does not apply to the following officers:

(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of active duty to which ordered.

(C) An officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

(D) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.

(f) **WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.**—Subsections (d) and (e) do not apply in time of war or of national emergency declared by Congress or the President.

(Added Pub. L. 104–201, div. A, title V, § 521(a), Sept. 23, 1996, 110 Stat. 2515; amended Pub. L. 105–85, div. A, title V, § 502, Nov. 18, 1997, 111 Stat. 1724; Pub. L. 107–107, div. A, title V, § 509(a), Dec. 28, 2001, 115 Stat. 1091.)

PRIOR PROVISIONS

A prior section 688, added Pub. L. 96–513, title I, § 106, Dec. 12, 1980, 94 Stat. 2868; amended Pub. L. 98–94, title X, § 1017(b)(1)–(3), Sept. 24, 1983, 97 Stat. 669; Pub. L. 99–145, title V, § 516, Nov. 8, 1985, 99 Stat. 630; Pub. L. 102–190, div. A, title V, § 506(a), Dec. 5, 1991, 105 Stat. 1359; Pub. L. 103–160, div. A, title V, § 563, Nov. 30, 1993, 107 Stat. 1669, provided that certain retired members of the armed forces could be ordered to active duty, prior to repeal by Pub. L. 104–201, div. A, title V, § 521(a), (b), Sept. 23, 1996, 110 Stat. 2515, 2517, effective Sept. 30, 1997. See sections 688 to 690 of this title.

AMENDMENTS

2001—Subsec. (e)(2)(D). Pub. L. 107–107 added subpar. (D).

1997—Subsec. (e). Pub. L. 105–85 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, § 509(c), Dec. 28, 2001, 115 Stat. 1091, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 690 of this title] shall apply with respect to officers serving on active duty as a defense attaché or service attaché on or after the date of the enactment of this Act [Dec. 28, 2001].”

EFFECTIVE DATE

Section 521(b) of Pub. L. 104–201 provided that: “The amendments made by this section [enacting this section and sections 689 and 690 of this title, amending section 6151 of this title, and repealing former section 688 of this title] shall take effect on September 30, 1997.”

§ 688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments

(a) **AUTHORITY.**—The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements. Any such order may be made only with the consent of the member ordered to active duty and in accordance with an agreement between the Secretary and the member.

(b) **DURATION.**—The period of active duty of a member under an order to active duty under subsection (a) shall be specified in the agreement entered into under that subsection.

(c) **LIMITATION.**—No more than a total of 1,000 members may be on active duty at any time under subsection (a).

(d) **RELATIONSHIP TO OTHER AUTHORITY.**—The authority to order a retired member to active duty under this section is in addition to the authority under section 688 of this title or any other provision of law authorizing the Secretary concerned to order a retired member to active duty.

(e) **INAPPLICABILITY OF CERTAIN PROVISIONS.**—Retired members ordered to active duty under subsection (a) shall not be counted for purposes of section 688 or 690 of this title.

(f) **EXPIRATION OF AUTHORITY.**—A retired member may not be ordered to active duty under this section after December 31, 2011.

(g) **HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY DEFINED.**—In this section, the term “high-demand, low-density military capability”