

§ 690. Retired members ordered to active duty: limitation on number

(a) GENERAL AND FLAG OFFICERS.—Not more than 15 retired general officers of the Army, Air Force, or Marine Corps, and not more than 15 retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.

(b) LIMITATION BY SERVICE.—(1) Not more than 25 officers of any one armed force may be serving on active duty concurrently pursuant to orders to active duty issued under section 688 of this title.

(2) In the administration of paragraph (1), the following officers shall not be counted:

(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 the active duty to which ordered.

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

(D) Any member of the Retiree Council of the Army, Navy, or Air Force for the period on active duty to attend the annual meeting of the Retiree Council.

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

(c) WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.—Subsection (a) does not apply in time of war or of national emergency declared by Congress or the President after November 30, 1980. Subsection (b) does 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. 2516; amended Pub. L. 106-65, div. A, title V, §507, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107-107, div. A, title V, §509(b), Dec. 28, 2001, 115 Stat. 1091.)

PRIOR PROVISIONS

A prior section 690 was renumbered section 12321 of this title.

Provisions similar to those in subsecs. (a) and (c) of this section were contained in section 688(c) of this title prior to repeal by Pub. L. 104-201, §521(a).

AMENDMENTS

2001—Subsec. (b)(2)(E). Pub. L. 107-107 added subpar. (E).

1999—Subsec. (b)(2)(D). Pub. L. 106-65 added subpar. (D).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 applicable with respect to officers serving on active duty as a defense attaché or service attaché on or after Dec. 28, 2001, see section 509(c) of Pub. L. 107-107, set out as a note under section 688 of this title.

EFFECTIVE DATE

Section effective Sept. 30, 1997, see section 521(b) of Pub. L. 104-201, set out as a note under section 688 of this title.

§ 691. Permanent end strength levels to support two major regional contingencies

(a) The end strengths specified in subsection (b) are the minimum strengths necessary to enable the armed forces to fulfill a national defense strategy calling for the United States to be able to successfully conduct two nearly simultaneous major regional contingencies.

(b) Unless otherwise provided by law, the number of members of the armed forces (other than the Coast Guard) on active duty at the end of any fiscal year shall be not less than the following:

- (1) For the Army, 547,400.
- (2) For the Navy, 325,700.
- (3) For the Marine Corps, 202,100.
- (4) For the Air Force, 332,800.

(c) The budget for the Department of Defense for any fiscal year as submitted to Congress shall include amounts for funding for each of the armed forces (other than the Coast Guard) at least in the amounts necessary to maintain the active duty end strengths prescribed in subsection (b), as in effect at the time that such budget is submitted.

(d) No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces (other than the Coast Guard) for any fiscal year below the level specified in subsection (b) unless the reduction in end strength for that armed force for that fiscal year is specifically authorized by law.

[(e) Repealed. Pub. L. 107-314, div. A, title IV, §402(b), Dec. 2, 2002, 116 Stat. 2525.]

(f) The number of members of the armed forces on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

(Added Pub. L. 104-106, div. A, title IV, §401(b)(1), Feb. 10, 1996, 110 Stat. 285; amended Pub. L. 104-201, div. A, title IV, §402, Sept. 23, 1996, 110 Stat. 2503; Pub. L. 105-85, div. A, title IV, §402, Nov. 18, 1997, 111 Stat. 1719; Pub. L. 105-261, div. A, title IV, §402(a), (b), Oct. 17, 1998, 112 Stat. 1995, 1996; Pub. L. 106-65, div. A, title IV, §402(a), title X, §1066(b)(1), Oct. 5, 1999, 113 Stat. 585, 772; Pub. L. 106-398, §1 [[div. A], title IV, §§402(a), 403], Oct. 30, 2000, 114 Stat. 1654, 1654A-92; Pub. L. 107-107, div. A, title IV, §402, Dec. 28, 2001, 115 Stat. 1069; Pub. L. 107-314, div. A, title IV, §402, Dec. 2, 2002, 116 Stat. 2524; Pub. L. 108-136, div. A, title IV, §402, Nov. 24, 2003, 117 Stat. 1450; Pub. L. 108-375, div. A, title IV, §402, Oct. 28, 2004, 118 Stat. 1862; Pub. L. 109-163, div. A, title IV, §402, Jan. 6, 2006, 119 Stat. 3219; Pub. L. 109-364, div. A, title IV, §402, Oct. 17, 2006, 120 Stat. 2169; Pub. L. 110-181, div. A, title IV, §402, Jan. 28, 2008, 122 Stat. 86; Pub. L. 110-417, [div. A], title IV, §402, Oct. 14, 2008, 122 Stat. 4428; Pub. L. 111-84, div. A, title IV, §402, Oct. 28, 2009, 123 Stat. 2265; Pub. L. 111-383, div. A, title IV, §402, Jan. 7, 2011, 124 Stat. 4202; Pub. L. 112-81, div. A, title IV, §402, Dec. 31, 2011, 125 Stat. 1382.)

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-81 substituted “325,700” for “324,300” in par. (2) and “332,800” for “332,200” in par. (4).

Pub. L. 111-383 substituted “324,300” for “328,800” in par. (2) and “332,200” for “331,700” in par. (4).

2009—Subsec. (b). Pub. L. 111-84 substituted “547,400” for “532,400” in par. (1), “328,800” for “325,300” in par. (2), “202,100” for “194,000” in par. (3), and “331,700” for “317,050” in par. (4).

2008—Subsec. (b). Pub. L. 110-417 substituted “532,400” for “525,400” in par. (1), “325,300” for “328,400” in par. (2), “194,000” for “189,000” in par. (3), and “317,050” for “328,600” in par. (4).

Pub. L. 110-181 substituted “525,400” for “502,400” in par. (1), “328,400” for “340,700” in par. (2), “189,000” for “180,000” in par. (3), and “328,600” for “334,200” in par. (4).

2006—Subsec. (b)(2) to (4). Pub. L. 109-364 substituted “340,700” for “352,700” in par. (2), “180,000” for “179,000” in par. (3), and “334,200” for “357,400” in par. (4).

Pub. L. 109-163 substituted “352,700” for “365,900” in par. (2), “179,000” for “178,000” in par. (3), and “357,400” for “359,700” in par. (4).

2004—Subsec. (b). Pub. L. 108-375 substituted “502,400” for “482,400” in par. (1), “365,900” for “373,800” in par. (2), “178,000” for “175,000” in par. (3), and “359,700” for “359,300” in par. (4).

2003—Subsec. (b)(1). Pub. L. 108-136, § 402(1), substituted “482,400” for “480,000”.

Subsec. (b)(2). Pub. L. 108-136, § 402(2), substituted “373,800” for “375,700”.

Subsec. (b)(4). Pub. L. 108-136, § 402(3), substituted “359,300” for “359,000”.

2002—Subsec. (b)(2) to (4). Pub. L. 107-314, § 402(a), substituted “375,700” for “376,000” in par. (2), “175,000” for “172,600” in par. (3), and “359,000” for “358,800” in par. (4).

Subsec. (e). Pub. L. 107-314, § 402(b), struck out subsec. (e) which read as follows: “For a fiscal year for which the active duty end strength authorized by law pursuant to section 115(a)(1)(A) of this title for any of the armed forces is identical to or greater than the number applicable to that armed force under subsection (b), the Secretary of Defense may reduce that number by not more than 0.5 percent.”

2001—Subsec. (b)(2). Pub. L. 107-107, § 402(1), substituted “376,000” for “372,000”.

Subsec. (b)(4). Pub. L. 107-107, § 402(2), substituted “358,800” for “357,000”.

2000—Subsec. (b)(2) to (4). Pub. L. 106-398, § 1 [[div. A], title IV, § 402(a)], substituted “372,000” for “371,781” in par. (2), “172,600” for “172,148” in par. (3), and “357,000” for “360,877” in par. (4).

Subsec. (e). Pub. L. 106-398, § 1 [[div. A], title IV, § 403], inserted “or greater than” after “identical to”.

1999—Subsec. (b)(2) to (4). Pub. L. 106-65, § 402(a), substituted “371,781” for “372,696” in par. (2), “172,148” for “172,200” in par. (3), and “360,877” for “370,802” in par. (4).

Subsec. (e). Pub. L. 106-65, § 1066(b)(1), made technical amendment to directory language of Pub. L. 105-261, § 402(b). See 1998 Amendment note below.

1998—Subsec. (b). Pub. L. 105-261, § 402(a), substituted “480,000” for “495,000” in par. (1), “372,696” for “390,802” in par. (2), “172,200” for “174,000” in par. (3), and “370,802” for “371,577” in par. (4).

Subsec. (e). Pub. L. 105-261, § 402(b), as amended by Pub. L. 106-65, § 1066(b)(1), substituted “0.5 percent.” for “1 percent or, in the case of the Army, by not more than 1.5 percent.”

1997—Subsec. (b)(2). Pub. L. 105-85, § 402(a)(1), substituted “390,802” for “395,000”.

Subsec. (b)(4). Pub. L. 105-85, § 402(a)(2), substituted “371,577” for “381,000”.

Subsec. (e). Pub. L. 105-85, § 402(b), inserted “or, in the case of the Army, by not more than 1.5 percent” before period at end.

1996—Subsec. (c). Pub. L. 104-201, § 402(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: “No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces for any fiscal year below the level specified in subsection (b) unless the Secretary of Defense submits to Congress notice of the proposed lower end strength levels and a

justification for those levels. No action may then be taken to implement such a reduction for that fiscal year until the end of the six-month period beginning on the date of the receipt of such notice by Congress.”

Subsec. (d). Pub. L. 104-201, § 402(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104-201, § 402(a)(1), (b), redesignated subsec. (d) as (e) and substituted “not more than 1 percent” for “not more than 0.5 percent”. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 104-201, § 402(a)(1), redesignated subsec. (e) as (f).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, § 1 [[div. A], title IV, § 402(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-92, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2000.”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title IV, § 402(b), Oct. 5, 1999, 113 Stat. 585, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1999.”

Pub. L. 106-65, div. A, title X, § 1066(b), Oct. 5, 1999, 113 Stat. 772, provided that the amendment made by section 1066(b) is effective Oct. 17, 1998, and as if included in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 105-261, as enacted.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title IV, § 402(c), Oct. 17, 1998, 112 Stat. 1996, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1998.”

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.

CHAPTER 40—LEAVE

Sec.	
701.	Entitlement and accumulation.
702.	Cadets and midshipmen.
703.	Reenlistment leave.
704.	Use of leave; regulations.
705.	Rest and recuperation absence: qualified members extending duty at designated locations overseas.
705a.	Rest and recuperation absence: certain members undergoing extended deployment to a combat zone.
706.	Administration of leave required to be taken.
707.	Payment upon disapproval of certain court-martial sentences for excess leave required to be taken.
707a.	Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken.
708.	Educational leave of absence.
709.	Emergency leave of absence.

AMENDMENTS

2011—Pub. L. 111-383, div. A, title V, § 532(b), Jan. 7, 2011, 124 Stat. 4216, added item 705a.

2003—Pub. L. 108-136, div. A, title VI, § 621(b)(2), Nov. 24, 2003, 117 Stat. 1505, struck out “enlisted” before “members” in item 705.

2002—Pub. L. 107-314, div. A, title V, §§ 506(d), 572(b), 574(b)(2)(B), Dec. 2, 2002, 116 Stat. 2536, 2558, substituted