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AMENDMENTS

1996—Pub. L. 104-324, title IV, §§ 401(b), 402(b), 403(b), Oct. 19, 1996, 110 Stat. 3923, 3924, inserted “of the Coast Guard Auxiliary” after “Administration” in item 821, inserted “of the Coast Guard Auxiliary” after “Purpose” in item 822, and added item 823a.

§ 821. Administration of the Coast Guard Auxiliary

(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the “Auxiliary headquarters unit”), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

- (1) Chapter 26¹ of title 28 (popularly known as the Federal Tort Claims Act).
- (2) Section 2733 of title 10 (popularly known as the Military Claims Act).
- (3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).
- (4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).
- (5) Chapter 311 of title 46 (known as the Public Vessels Act).
- (6) Other matters related to noncontractual civil liability.

(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.

(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

(2) The Secretary may treat personal property of the auxiliary as property of the United States—

(A) for the purposes of—

(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

(ii) section 641 of this title; and

(B) as otherwise provided in this chapter.

(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

(4) In this subsection, the term “personal property of the Auxiliary” means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104-324, title IV, § 401(a), Oct. 19, 1996, 110 Stat. 3922; Pub. L. 108-293, title II, § 226, Aug. 9, 2004, 118 Stat. 1041; Pub. L. 109-304, § 17(c), Oct. 6, 2006, 120 Stat. 1707.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 260, 263 (Feb. 19, 1941, ch. 8, title I, §§ 1, 4, 55 Stat. 9, 10).

This section continues the Auxiliary, redefining it as a nonmilitary organization, and providing for its administration. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Subsec. (b)(3) to (5). Pub. L. 109-304 added pars (3) to (5) and struck out former pars. (3) to (5) which read as follows:

“(3) The Act of March 3, 1925 (46 App. U.S.C. 781-790; popularly known as the Public Vessels Act).

“(4) The Act of March 9, 1920 (46 App. U.S.C. 741-752; popularly known as the Suits in Admiralty Act).

“(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).”

2004—Subsec. (d). Pub. L. 108-293 added subsec. (d).

1996—Pub. L. 104-324 inserted “of the Coast Guard Auxiliary” after “Administration” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Coast Guard Auxiliary established on February 19, 1941, is a nonmilitary organization administered by the Commandant under the direction of the Secretary.”

USE OF COAST GUARD AUXILIARY

Pub. L. 99-640, § 9, Nov. 10, 1986, 100 Stat. 3548, provided that:

“(a) It is the sense of the Congress that the Coast Guard Auxiliary performs a broad range of services in behalf of the safety and security of the American people, and that the continued strength and vitality of the Coast Guard Auxiliary is important to the United States.

“(b)(1) The Secretary of Transportation shall investigate and submit to the Congress a report within 1 year after the date of enactment of this Act [Nov. 10, 1986] regarding—

“(A) the extent to which membership of the Coast Guard Auxiliary has declined in recent years and the causes of such decline;

“(B) the effect, if any, on the maritime community of any such decline in the performance levels of the Coast Guard Auxiliary in the areas of life-saving, assistance to persons in distress, safety patrols and in-

¹ So in original. Probably should be 171.

spections, and support missions for the Coast Guard; and

“(C) the effect, if any, of the Coast Guard’s non-emergency assistance policy on the overall effectiveness of the Coast Guard Auxiliary.

“(2) The report submitted by the Secretary under this section shall include such recommendations for legislative and administrative action as the Secretary considers appropriate to achieve and maintain the Coast Guard Auxiliary at its optimum strength.”

§ 822. Purpose of the Coast Guard Auxiliary

The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104-324, title IV, § 402(a), Oct. 19, 1996, 110 Stat. 3923.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 261 (Feb. 19, 1941, ch. 8, title I, § 2, 55 Stat. 9; Sept. 30, 1944, ch. 453, § 1, 58 Stat. 759).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104-324 inserted “of the Coast Guard Auxiliary” after “Purpose” in section catchline and amended text generally. Prior to amendment, text read as follows: “The purpose of the Auxiliary is to assist the Coast Guard:

“(a) to promote safety and to effect rescues on and over the high seas and on navigable waters;

“(b) to promote efficiency in the operation of motorboats and yachts;

“(c) to foster a wider knowledge of, and better compliance with, the laws, rules, and regulations governing the operation of motorboats and yachts; and

“(d) to facilitate other operations of the Coast Guard.”

§ 823. Eligibility, enrollments

The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations or who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 262, 351 (Feb. 19, 1941, ch. 8, title I, § 3, title III, § 301, 55 Stat. 9, 13; Oct. 26, 1942, ch. 628, 56 Stat. 990; Sept. 30, 1944, ch. 453, § 2, 58 Stat. 760).

All reference to the Philippine Islands is eliminated. Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 823a. Members of the Auxiliary; status

(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of inter-

est, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) Chapter 26¹ of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(7) Compensation for work injuries under chapter 81 of title 5.

(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees’ Claims Act of 1964 (31 U.S.C. 3721).¹

(9) On or after January 1, 2001, section 651 of Public Law 104-208.

(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.

(Added Pub. L. 104-324, title IV, § 403(a), Oct. 19, 1996, 110 Stat. 3923; amended Pub. L. 107-295, title IV, § 415, Nov. 25, 2002, 116 Stat. 2121; Pub. L. 109-304, § 17(c), Oct. 6, 2006, 120 Stat. 1707.)

REFERENCES IN TEXT

The Military Personnel and Civilian Employees’ Claims Act of 1964, referred to in subsec. (b)(8), is Pub. L. 88-558, Aug. 31, 1964, 78 Stat. 767, as amended, which enacted sections 240 to 243 of former Title 31, Money and Finance, amended section 2735 of Title 10, Armed Forces, and repealed section 490 of this title and section 2732 of Title 10, and which was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance. For disposition of sections of former Title 31 into revised Title 31, see Table preceding section 101 of Title 31. For complete classification of this Act to the Code, see Tables.

Section 651 of Public Law 104-208, referred to in subsec. (b)(9), is section 101(f) [title VI, § 651] of Pub. L. 104-208, which is set out as a note under section 8133 of Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsec. (b)(3) to (5). Pub. L. 109-304 added pars (3) to (5) and struck out former pars. (3) to (5) which read as follows:

“(3) The Act of March 3, 1925 (46 App. U.S.C. 781-790; popularly known as the Public Vessels Act).

“(4) The Act of March 9, 1920 (46 App. U.S.C. 741-752; popularly known as the Suits in Admiralty Act).

“(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).”

2002—Subsec. (b)(9). Pub. L. 107-295 added par. (9).

¹ So in original. Probably should be 171.