

## CROSS REFERENCES

Secretary of War to provide for National Guard participation in encampments, maneuvers, or other exercises, including outdoor target practice, for field or coast-defense instruction, see section 63 of this title.

**§ 72. Right of command during joint encampments, etc., with Regular Army.**

When any part of the National Guard participates in encampments, maneuvers, or other exercises, including outdoor target practice, for field or coast-defense instruction at a United States military post, or reservation, or elsewhere, if in conjunction with troops of the United States, the command of such military post or reservation and of the officers and troops of the United States on duty there or elsewhere shall remain with the commander of the United States troops without regard to the rank of the commanding or other officer of the National Guard temporarily engaged in the encampments, maneuvers, or other exercises. (June 3, 1916, ch. 134, § 95, 39 Stat. 207.)

**§ 73. Reduced rates for transportation to and from encampments, etc.**

Nothing in the Act of February fourth, eighteen hundred and eighty-seven shall be construed to prohibit any common carrier from giving reduced rates for members of National Guard organizations traveling to and from joint encampments with the Regular Army. (Aug. 29, 1916, ch. 418, § 1, 39 Stat. 646.)

## REFERENCES IN TEXT

Act of February fourth, eighteen hundred and eighty-seven, mentioned in text, is the Interstate Commerce Act which is now incorporated in the Code as chapters 1, 8, 12, and 13 of Title 49, Transportation. For specific references to sections of the act see the Tables.

## CROSS REFERENCES

Special rates and rebates prohibited, see section 2 of Title 49, Transportation.

**§ 74. Offices for inspector instructors.**

Whenever practicable inspector instructors shall use the State armories or other public buildings for offices. (May 12, 1917, ch. 12, 40 Stat. 68.)

**§ 75. Government employees in National Guard; leaves of absence for training periods; employment and reemployment rights; pay and allowances.**

All officers and employees of the United States and of the District of Columbia who shall be members of the National Guard shall be entitled to leave of absence from their respective duties, without loss of pay, time, or efficiency rating on all days during which they shall be engaged in field or coast-defense training ordered or authorized under the provisions of this title, for periods not to exceed fifteen days in any one calendar year: *Provided*, That all members of the National Guard who are in the employ of the United States Government or of the District of Columbia and who are ordered to duty by proper authority shall, when relieved from duty, be restored to the positions held by them when ordered to duty: *And provided further*, That no existing law shall be construed to prevent any member of the National Guard from accepting employment in any civil branch of the public service nor from receiving

the pay incident to such employment in addition to any pay and allowances to which he may be entitled under the provisions of law relating to the National Guard, nor as prohibiting him from practicing his civilian profession or occupation before or in connection with any department of the Federal Government. (June 3, 1916, ch. 134, § 80, 39 Stat. 203; July 1, 1947, ch. 192, § 2, 61 Stat. 239.)

## REFERENCES IN TEXT

In original "title" read "Act" meaning the National Defense Act of 1916, act June 3, 1916, ch. 134, 39 Stat. 166. For distribution of this act into this title see note under section 2 of this title.

## AMENDMENTS

1947—Act July 1, 1947 amended section by adding proviso to give National Guard members 15 days' leave of absence each year when ordered to report to duty and the right of reemployment.

**§ 76. Same; definition.**

The words "officers and employees of the United States or the District of Columbia" as used in section 75 of this title shall be construed to mean all officers and employees of the United States or of the District of Columbia, permanent or temporary indefinite, without regard to classifications or terminology peculiar to the Federal Civil Service System. (July 1, 1947, ch. 192, § 4, 61 Stat. 239.)

## CODIFICATION

Similar provisions are set out as section 371a of Title 10, Army and Air Force, and section 853g-1 of Title 34, Navy.

**Chapter 5.—CALL OR DRAFT INTO FEDERAL SERVICE**

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| Sec. |  |
| 81.  | Repealed.  |
| 81a. | Authority to call forth militia.   |
| 81b. | Calling forth militia; period of service; apportionment.   |
| 81c. | Repealed.  |
| 82.  | Law governing National Guard called into Federal service.  |
| 83.  | Physical examination.  |
| 84.  | Drafting Philippine Militia into Federal service.  |
| 85.  | Establishment within States comparable units to units retained in Federal service; arms and equipment. |
| 86.  | Same; composition; rights and privileges of members.   |

## CROSS REFERENCES

Insurrection, Federal aid in time of, see section 201 et seq. of Title 50, War and National Defense.

Ordering Ready Reserve, Standby Reserve and Retired Reserve to active duty, see sections 925—927 of Title 50, War and National Defense.

Ordering Reserve components to active Federal service, see section 301 of Appendix to Title 50, War and National Defense.

**§ 81. Repealed. July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505.**

Section, acts June 3, 1916, ch. 134, § 111, 39 Stat. 211; June 4, 1920, ch. 227, subch. I, § 49, 41 Stat. 784; June 15, 1933, ch. 87, § 18, 48 Stat. 160; June 19, 1935, ch. 277, § 7, 49 Stat. 392, related to the authority of President to order units and members into active military service, and is now covered by chapter 25 of Title 50, War and National Defense.

## EFFECTIVE DATE OF REPEAL

Repeal of section as effective on the first day of the sixth month following July 1952, see note set out under section 901 of Title 50, War and National Defense.

**§ 81a. Authority to call forth militia.**

Whenever the United States is invaded or in danger of invasion from any foreign nation, or of rebellion against the authority of the Government of the United States, or the President is unable, with the regular forces at his command to execute the laws of the Union, it shall be lawful for the President to call forth such number of the militia of the State or of the States or Territories or of the District of Columbia as he may deem necessary to repel such invasion, suppress such rebellion, or to enable him to execute such laws, and to issue his orders for that purpose through the governor of the respective State or Territory, or through the commanding general of the Militia of the District of Columbia, from which State, Territory, or District such troops may be called, to such officers of the militia as he may think proper. (Jan. 21, 1903, ch. 196, § 4, 32 Stat. 776; May 27, 1908, ch. 204, § 3, 35 Stat. 400.)

**§ 81b. Calling forth militia; period of service; apportionment.**

Whenever the President calls forth the organized militia (including the National Guard) of any State, Territory, or the District of Columbia, to be employed in the service of the United States, he may specify in his call the period for which such service is required, and the militia so called shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by the President: *Provided*, That no commissioned officer or enlisted man shall be held to service beyond the term of his existing commission or enlistment, except as provided in section 81 of this title. When the militia of more than one State is called into the actual service of the United States by the President he may, in his discretion, apportion them among such States or Territories or to the District of Columbia according to representative population. (Jan. 21, 1903, ch. 196, §§ 5, 6, 32 Stat. 776; May 27, 1908, ch. 204, § 4, 35 Stat. 400.)

## REFERENCES IN TEXT

Section 81 of this title, referred to in the text, was repealed by act July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505, and is now covered by chapter 25 of Title 50, War and National Defense.

**§ 81c. Repealed. July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505.**

Section, acts June 3, 1916, ch. 134, § 38, as added June 19, 1935, ch. 277, § 1, 49 Stat. 391, related to ordering officers to active duty in an emergency, and is now covered by chapter 25 of Title 50, War and National Defense.

## EFFECTIVE DATE OF REPEAL

Repeal of section as effective on the first day of the sixth month following July 1952, see note set out under section 901 of Title 50, War and National Defense.

**§ 82. Law governing National Guard called into Federal service.**

The National Guard when called as such into the service of the United States shall, from the time they are required by the terms of the call to respond thereto, be subject to the laws and regulations governing the Regular Army, so far as such laws and regulations are applicable to officers and enlisted men whose permanent retention in the military

service, either on the active list or on the retired list, is not contemplated by existing law. (June 3, 1916, ch. 134, § 101, 39 Stat. 208.)

**§ 83. Physical examination.**

Every officer and enlisted man of the National Guard who shall be called into the service of the United States as such shall be examined as to his physical fitness under such regulations as the President may prescribe without further commission or enlistment: *Provided*, That immediately preceding the muster out of an officer or enlisted man called into the active service of the United States he shall be physically examined under rules prescribed by the President of the United States, and the record thereof shall be filed and kept in the Department of the Army. (June 3, 1916, ch. 134, § 115, 39 Stat. 212; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

## CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

**§ 84. Drafting Philippine Militia into Federal service.**

## CODIFICATION

Section, act Jan. 26, 1918, ch. 11, 40 Stat. 432, has been omitted in view of the granting of independence to the Philippine Islands by Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7517, 60 Stat. 1352, which was issued under the authority of section 1394 of Title 22, Foreign Relations and Intercourse, and is set out as a note thereunder.

**§ 85. Establishment within States comparable units to units retained in Federal service; arms and equipment.**

Notwithstanding any other provision of law, the Secretary of the Army and the Secretary of the Air Force, as appropriate, may, under such regulations as he may prescribe, provide for the organization within any State, Territory, the District of Columbia, or Puerto Rico, of units of the National Guard and Air National Guard whenever unit organizations thereof are retained in the Federal service pursuant to the provisions of the second paragraph of section 471 of Appendix to Title 50. Each unit so organized shall be comparable in organization structure to that of the unit organization retained in the Federal service, and the strength of any such organized unit shall be as prescribed by the appropriate Secretary and may be changed from time to time, depending upon the availability of manpower: *Provided*, That such units, organized as herein provided, and the members thereof shall be integrated into the respective corresponding unit organizations of the National Guard and Air National Guard retained in the Federal service within a reasonable time after the date of the release of such retained units to State control: *Provided further*, That the Secretary of the Army and the Secretary of the Air Force, as appropriate, under such regulations as he may prescribe, shall provide for the arming and equipping of such units in such manner and without regard to apportionment, from available Army, or Air Force stocks, as appropriate, or otherwise, as he may deem necessary. Such arms and equipment shall be pro-

vided initially on a reduced basis and changed from time to time depending upon their availability. (July 7, 1952, ch. 584, § 2, 66 Stat. 440.)

**§ 86. Same; composition; rights and privileges of members.**

Pursuant to regulations prescribed by the appropriate Secretary, the units authorized in section 86 of this title shall consist of persons eligible for enlistment and appointment in the National Guard or Air National Guard of the respective State, Territory, the District of Columbia, or Puerto Rico, in accordance with the provisions of this title, and of members of the National Guard or Air National Guard who are released from the active military service of the United States or have nonterminated enlistments or appointments in the National Guard or Air National Guard of the respective State, Territory, the District of Columbia, or Puerto Rico, and the members thereof shall be entitled to the same benefits, rights, privileges, and emoluments and be subject to the same laws and regulations, as other members of the National Guard or Air National Guard of such State, Territory, the District of Columbia, or Puerto Rico. (July 7, 1952, ch. 584, § 3, 66 Stat. 441.)

**REFERENCES IN TEXT**

In original "title" read "National Defense Act, as amended." For distribution of this act see note under section 2 of this title.

**Chapter 6.—COURTS-MARTIAL**

Sec.

91. System of courts-martial for National Guard.
92. General courts-martial.
93. Special courts-martial.
94. Summary courts.
95. Sentence to imprisonment in lieu of fine.
96. Approval of sentence of dismissal from service.
97. Issuance of warrants of arrest; execution of sentences.

**UNIFORM CODE OF MILITARY JUSTICE**

The Uniform Code of Military Justice, which superseded the Articles of War is classified to chapter 22 of title 50, War and National Defense.

**§ 91. System of courts-martial for National Guard.**

Except in organizations in the service of the United States, court-martial in the National Guard shall be of three kinds, namely, general courts-martial, special courts-martial, and summary courts-martial. They shall be constituted like, and have cognizance of the same subjects, and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing the Army of the United States, and the proceedings of courts-martial of the National Guard shall follow the forms and modes of procedure prescribed for said similar courts. (June 3, 1916, ch. 134, § 102, 39 Stat. 208.)

**CROSS REFERENCES**

Courts-martial of the Army, see chapter 22 of Title 50, War and National Defense.

**§ 92. General courts-martial.**

General courts-martial of the National Guard not in the service of the United States may be convened by orders of the President, or of the governors of the respective States and Territories, or

by the commanding general of the National Guard of the District of Columbia, and such courts shall have the power to impose fines not exceeding \$200; to sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of noncommissioned officers to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts. (June 3, 1916, ch. 134, § 103, 39 Stat. 208.)

**§ 93. Special courts-martial.**

In the National Guard, not in the service of the United States, the commanding officer of each garrison, fort, post, camp, or other place, brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Special courts-martial shall have power to try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States, and such special courts-martial shall have the same powers of punishment as do general courts-martial, except that fines imposed by such courts shall not exceed \$100. (June 3, 1916, ch. 134, § 104, 39 Stat. 208.)

**§ 94. Summary courts.**

In the National Guard, not in the service of the United States, the commanding officer of each garrison, fort, post, or other place, regiment, or corps, detached battalion, company, or other detachment of the National Guard may appoint for such place or command a summary court to consist of one officer, who shall have power to administer oaths and to try the enlisted men of such place or command for breaches of discipline and violations of laws governing such organizations; and said court, when satisfied of the guilt of such soldier, may impose fines not exceeding \$25 for any single offense; may sentence noncommissioned officer to reduction to the ranks; may sentence to forfeiture of pay and allowances. The proceedings of such court shall be informal, and the minutes thereof shall be the same as prescribed for summary courts of the Army of the United States. (June 3, 1916, ch. 134, § 105, 39 Stat. 208.)

**§ 95. Sentence to imprisonment in lieu of fine.**

All courts-martial of the National Guard, not in the service of the United States, including summary courts, shall have power to sentence to confinement in lieu of fines authorized to be imposed: *Provided*, That such sentences of confinement shall not exceed one day for each dollar of fine authorized. (June 3, 1916, ch. 134, § 106, 39 Stat. 209.)

**§ 96. Approval of sentence of dismissal from service.**

No sentence of dismissal from the service or dishonorable discharge, imposed by a National Guard court-martial, not in the service of the United States, shall be executed until approved by the governor of the State or Territory concerned, or by