

-CITE-

10 USC CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER
MORALE, WELFARE, AND RECREATION ACTIVITIES 01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

-HEAD-

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

-MISC1-

| Subchapter | Sec. | |
|------------|---|------|
| I. | Defense Commissary and Exchange Systems | 2481 |
| II. | Relationship, Continuation, and Common Policies of Defense Commissary and Exchange Systems | 2487 |
| III. | Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities | 2491 |

AMENDMENTS

2004 - Pub. L. 108-375, div. A, title VI, Sec. 651(a)(1), (3),
Oct. 28, 2004, 118 Stat. 1964, added items for subchapters I to III
and struck out items 2481 "Existence of defense commissary system
and exchange stores system", 2482 "Commissary stores: operation",
2482a "Nonappropriated fund instrumentalities: contracts with other
agencies and instrumentalities to provide and obtain goods and
services", 2483 "Commissary stores: reimbursement for use of
commissary facilities by military departments", 2484 "Commissary
stores: use of appropriated funds to cover operating expenses",
2485 "Donation of unusable food: commissary stores and other
activities", 2486 "Commissary stores: merchandise that may be sold;
uniform surcharges and pricing", 2487 "Commissary stores: release
of certain commercially valuable information to the public", 2488
"Nonappropriated fund instrumentalities: purchase of alcoholic
beverages", 2489 "Overseas package stores: treatment of United
States wines", 2489a "Sale or rental of sexually explicit material
prohibited", 2490a "Combined exchange and commissary stores", 2492
"Overseas commissary and exchange stores: access and purchase
restrictions", 2493 "Fisher Houses: administration as
nonappropriated fund instrumentality", and 2494 "Uniform funding
and management of morale, welfare, and recreation programs".

2003 - Pub. L. 108-136, div. A, title VI, Sec. 652(b), Nov. 24,
2003, 117 Stat. 1522, added item 2481.

2002 - Pub. L. 107-314, div. A, title III, Sec. 323(b), Dec. 2,
2002, 116 Stat. 2511, added item 2494.

2001 - Pub. L. 107-107, div. A, title III, Secs. 332(b), 333(b),
Dec. 28, 2001, 115 Stat. 1058, 1059, added item 2483 and
substituted "Commissary stores: release of certain commercially
valuable information to the public" for "Commissary stores:
limitations on release of sales information" in item 2487.

2000 - Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec.
331(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-59, added item
2484 and struck out former item 2484 "Commissary stores: expenses".

1998 - Pub. L. 105-261, div. A, title III, Sec. 365(b), title IX,
Sec. 906(a)(2), Oct. 17, 1998, 112 Stat. 1987, 2095, added items
2492 and 2493.

1997 - Pub. L. 105-85, div. A, title III, Sec. 371(a)(1), (c)(1), Nov. 18, 1997, 111 Stat. 1705, substituted "COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES" for "UTILITIES AND SERVICES" as chapter heading and struck out items 2481 "Utilities and services: sale; expansion and extension of systems and facilities", 2483 "Sale of electricity from alternate energy and cogeneration production facilities", and 2490 "Utility services: furnishing for certain buildings".

1996 - Pub. L. 104-201, div. A, title III, Secs. 341(a)(2), 343(a)(2), Sept. 23, 1996, 110 Stat. 2489, 2490, added items 2482a and 2489a.

Pub. L. 104-106, div. A, title III, Secs. 331(b), 336(a)(2), Feb. 10, 1996, 110 Stat. 260, 264, substituted "Commissary stores: operation" for "Commissary stores: private operation" in item 2482 and added item 2490a.

1993 - Pub. L. 103-160, div. A, title XI, Sec. 1182(a)(8)(B), Nov. 30, 1993, 107 Stat. 1771, struck out item 2490a "Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds".

1992 - Pub. L. 102-484, div. A, title III, Secs. 362(b), 364(b)(1), Oct. 23, 1992, 106 Stat. 2380, 2382, substituted "limitations" for "limitation" in item 2487 and added item 2490a.

1990 - Pub. L. 101-510, div. A, title III, Sec. 324(b)(2), Nov. 5, 1990, 104 Stat. 1531, amended item 2485 generally, substituting "Donation of unusable food: commissary stores and other activities" for "Commissary stores: donation of unmarketable food".

1988 - Pub. L. 100-370, Sec. 1(j)(2), July 19, 1988, 102 Stat. 848, added item 2490.

1987 - Pub. L. 100-180, div. A, title III, Secs. 311(a)(2), 313(a)(3), Dec. 4, 1987, 101 Stat. 1073, 1074, inserted "and pricing" in item 2486 and added item 2489.

1986 - Pub. L. 99-661, div. A, title III, Sec. 313(c), Nov. 14, 1986, 100 Stat. 3853, added items 2486, 2487, and 2488.

1985 - Pub. L. 99-145, title XIV, Sec. 1460(b), Nov. 8, 1985, 99 Stat. 765, added item 2485.

1984 - Pub. L. 98-525, title XIV, Sec. 1401(i)(2), Oct. 19, 1984, 98 Stat. 2620, added item 2484.

Pub. L. 98-407, title VIII, Sec. 810(b), Aug. 28, 1984, 98 Stat. 1523, added item 2483.

-End-

-CITE-

10 USC SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS
01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES
SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-MISC1-

Sec.
2481. Defense commissary and exchange systems: existence and

- purpose.
2482. Commissary stores: criteria for establishment or closure; store size.
2483. Commissary stores: use of appropriated funds to cover operating expenses.
2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.
2485. Commissary stores: operation.

AMENDMENTS

- 2006 - Pub. L. 109-364, div. A, title X, Sec. 1071(a)(18), Oct. 17, 2006, 120 Stat. 2399, inserted period at end of item 2481.
- 2004 - Pub. L. 108-375, div. A, title VI, Sec. 651(a)(3), Oct. 28, 2004, 118 Stat. 1964, added subchapter heading and items 2481 to 2485.

-End-

-CITE-

10 USC Sec. 2481

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2481. Defense commissary and exchange systems: existence and purpose

-STATUTE-

(a) Separate Systems. - The Secretary of Defense shall operate, in the manner provided by this chapter and other provisions of law, a world-wide system of commissary stores and a separate world-wide system of exchange stores. The stores of each system may sell, at reduced prices, food and other merchandise to members of the uniformed services on active duty, members of the uniformed services entitled to retired pay, dependents of such members, and persons authorized to use the system under chapter 54 of this title.

(b) Purpose of Systems. - The defense commissary system and the exchange system are intended to enhance the quality of life of members of the uniformed services, retired members, and dependents of such members, and to support military readiness, recruitment, and retention.

(c) Oversight. - (1) The Secretary of Defense shall designate a senior official of the Department of Defense to oversee the operation of both the defense commissary system and the exchange system.

(2) The Secretary of Defense shall establish an executive governing body to provide advice to the senior official designated under paragraph (1) regarding the operation of the defense commissary and exchange systems and to ensure the complementary operation of the systems.

(d) Reduced Prices Defined. - In this section, the term "reduced prices" means prices for food and other merchandise determined

using the price setting process specified in section 2484 of this title.

-SOURCE-

(Added Pub. L. 108-375, div. A, title VI, Sec. 651(a)(3), Oct. 28, 2004, 118 Stat. 1965.)

-MISC1-

PRIOR PROVISIONS

A prior section 2481, added Pub. L. 108-136, div. A, title VI, Sec. 652(a), Nov. 24, 2003, 117 Stat. 1522, related to the existence of defense commissary system and exchange stores system, prior to repeal by Pub. L. 108-375, div. A, title VI, Sec. 651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

Another prior section 2481 was renumbered section 2686 of this title.

-End-

-CITE-

10 USC Sec. 2482

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2482. Commissary stores: criteria for establishment or closure; store size

-STATUTE-

(a) Primary Consideration for Establishment. - The needs of members of the armed forces on active duty and the needs of dependents of such members shall be the primary consideration whenever the Secretary of Defense -

- (1) assesses the need to establish a commissary store; and
- (2) selects the actual location for the store.

(b) Store Size. - In determining the size of a commissary store, the Secretary of Defense shall take into consideration the number of all authorized patrons of the defense commissary system who are likely to use the store.

(c) Closure Considerations. - (1) Whenever assessing whether to close a commissary store, the effect of the closure on the quality of life of members and dependents referred to in subsection (a) who use the store and on the welfare and security of the military community in which the commissary is located shall be a primary consideration.

(2) Whenever assessing whether to close a commissary store, the Secretary of Defense shall also consider the effect of the closure on the quality of life of members of the reserve components of the armed forces.

(d) Congressional Notification. - (1) The closure of a commissary store shall not take effect until the end of the 90-day period

beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of life for military patrons and the welfare and security of the military community in which the commissary is located.

(2) Paragraph (1) shall not apply in the case of the closure of a commissary store as part of the closure of a military installation under a base closure law.

-SOURCE-

(Added Pub. L. 108-375, div. A, title VI, Sec. 651(a)(3), Oct. 28, 2004, 118 Stat. 1965.)

-MISC1-

PRIOR PROVISIONS

A prior section 2482 was renumbered section 2485 of this title.

A prior section 2482a was renumbered section 2492 of this title.

PROHIBITION ON CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEPARTMENT OF DEFENSE RETAIL SYSTEMS

Pub. L. 105-261, div. A, title III, Sec. 367, Oct. 17, 1998, 112 Stat. 1987, which provided that the operation and administration of the defense retail systems could not be consolidated or otherwise merged unless the consolidation or merger was specifically authorized by a law enacted after Oct. 17, 1998, was repealed by Pub. L. 108-375, div. A, title VI, Sec. 651(e)(3), Oct. 28, 2004, 118 Stat. 1972.

-End-

-CITE-

10 USC Sec. 2483

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES

SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2483. Commissary stores: use of appropriated funds to cover operating expenses

-STATUTE-

(a) Operation of Agency and System. - Except as otherwise provided in this title, the operation of the Defense Commissary Agency and the defense commissary system shall be funded using such amounts as are appropriated for such purpose.

(b) Operating Expenses of Commissary Stores. - Appropriated funds shall be used to cover the expenses of operating commissary stores and central product processing facilities of the defense commissary system. For purposes of this subsection, operating expenses include the following:

(1) Salaries and wages of employees of the United States, host nations, and contractors supporting commissary store operations.

- (2) Utilities.
- (3) Communications.
- (4) Operating supplies and services.
- (5) Second destination transportation costs within or outside the United States.
- (6) Any cost associated with above-store-level management or other indirect support of a commissary store or a central product processing facility, including equipment maintenance and information technology costs.

(c) Supplemental Funds for Commissary Operations. - Amounts appropriated to cover the expenses of operating the Defense Commissary Agency and the defense commissary system may be supplemented with additional funds from manufacturers' coupon redemption fees, handling fees for tobacco products, and other amounts received as reimbursement for other support activities provided by commissary activities.

-SOURCE-

(Added Pub. L. 98-525, title XIV, Sec. 1401(i)(1), Oct. 19, 1984, 98 Stat. 2619, Sec. 2484; amended Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 331(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-59; Pub. L. 108-136, div. A, title VI, Sec. 654, Nov. 24, 2003, 117 Stat. 1523; renumbered Sec. 2483, Pub. L. 108-375, div. A, title VI, Sec. 651(a)(2), (4), Oct. 28, 2004, 118 Stat. 1964, 1966.)

-MISC1-

PRIOR PROVISIONS

A prior section 2483, added Pub. L. 107-107, div. A, title III, Sec. 332(a), Dec. 28, 2001, 115 Stat. 1058, related to reimbursement for use of commissary facilities by military departments, prior to repeal by Pub. L. 108-375, div. A, title VI, Sec. 651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

Another prior section 2483 was renumbered section 2916 of this title.

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, Sec. 101(h) [title VIII, Sec. 8010], 98 Stat. 1904, 1924.

Dec. 8, 1983, Pub. L. 98-212, title VII, Sec. 713, 97 Stat. 1440.

Dec. 21, 1982, Pub. L. 97-377, title I, Sec. 101(c) [title VII, Sec. 714], 96 Stat. 1833, 1852.

Dec. 29, 1981, Pub. L. 97-114, title VII, Sec. 714, 95 Stat. 1580.

Dec. 15, 1980, Pub. L. 96-527, title VII, Sec. 715, 94 Stat. 3083.

Dec. 21, 1979, Pub. L. 96-154, title VII, Sec. 715, 93 Stat. 1155.

Oct. 13, 1978, Pub. L. 95-457, title VIII, Sec. 815, 92 Stat. 1246.

Sept. 21, 1977, Pub. L. 95-111, title VIII, Sec. 814, 91 Stat. 902.

Sept. 22, 1976, Pub. L. 94-419, title VII, Sec. 714, 90 Stat. 1293.

Feb. 9, 1976, Pub. L. 94-212, title VII, Sec. 714, 90 Stat. 171.

Oct. 8, 1974, Pub. L. 93-437, title VIII, Sec. 814, 88 Stat. 1227.

Jan. 2, 1974, Pub. L. 93-238, title VII, Sec. 714, 87 Stat. 1040.

Oct. 26, 1972, Pub. L. 92-570, title VII, Sec. 714, 86 Stat.

1198.

Dec. 18, 1971, Pub. L. 92-204, title VII, Sec. 714, 85 Stat. 729.

Jan. 11, 1971, Pub. L. 91-668, title VIII, Sec. 814, 84 Stat.

2032.

Dec. 29, 1969, Pub. L. 91-171, title VI, Sec. 614, 83 Stat. 482.

Oct. 17, 1968, Pub. L. 90-580, title V, Sec. 513, 82 Stat. 1132.

Sept. 29, 1967, Pub. L. 90-96, title VI, Sec. 613, 81 Stat. 244.

Oct. 15, 1966, Pub. L. 89-687, title VI, Sec. 613, 80 Stat. 993.

Sept. 29, 1965, Pub. L. 89-213, title VI, Sec. 613, 79 Stat. 875.

Aug. 19, 1964, Pub. L. 88-446, title V, Sec. 513, 78 Stat. 477.

Oct. 17, 1963, Pub. L. 88-149, title V, Sec. 513, 77 Stat. 266.

Aug. 9, 1962, Pub. L. 87-577, title V, Sec. 513, 76 Stat. 330.

Aug. 17, 1961, Pub. L. 87-144, title VI, Sec. 613, 75 Stat. 377.

July 7, 1960, Pub. L. 86-601, title V, Sec. 513, 74 Stat. 351.

Aug. 18, 1959, Pub. L. 86-166, title V, Sec. 613, 73 Stat. 380.

Aug. 22, 1958, Pub. L. 85-724, title VI, Sec. 613, 72 Stat. 725.

Aug. 2, 1957, Pub. L. 85-117, title VI, Sec. 614, 71 Stat. 325.

July 2, 1956, ch. 488, title VI, Sec. 614, 70 Stat. 469.

July 13, 1955, ch. 358, title VI, Sec. 617, 69 Stat. 317.

June 30, 1954, ch. 432, title VII, Sec. 717, 68 Stat. 353.

Aug. 1, 1953, ch. 305, title VI, Sec. 624, 67 Stat. 353.

July 10, 1952, ch. 630, title VI, Sec. 627, 66 Stat. 535.

Oct. 18, 1951, ch. 512, title VI, Sec. 628, 65 Stat. 449.

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2484 of this title as this section.

2003 - Subsec. (a). Pub. L. 108-136, Sec. 654(a)(1), substituted "shall" for "may".

Subsec. (b). Pub. L. 108-136, Sec. 654(a)(2), substituted "shall" for "may" in introductory provisions.

Subsec. (c). Pub. L. 108-136, Sec. 654(b), added subsec. (c).

2000 - Pub. L. 106-398 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (d) providing that funds available to the Department of Defense could be used to pay for certain costs in connection with the operation of commissary stores only on a reimbursable basis and allowed transportation and utilities to be furnished for the operation of those stores outside of the United States or in Alaska and Hawaii.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 331(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-59, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2001."

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

-End-

-CITE-

10 USC Sec. 2484

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES
SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing

-STATUTE-

(a) In General. - As provided in section 2481(a) of this title, commissary stores are intended to be similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

(b) Authorized Commissary Merchandise Categories. - Merchandise sold in, at, or by commissary stores may include items in the following categories:

- (1) Meat, poultry, seafood, and fresh-water fish.
- (2) Nonalcoholic beverages.
- (3) Produce.
- (4) Grocery food, whether stored chilled, frozen, or at room temperature.
- (5) Dairy products.
- (6) Bakery and delicatessen items.
- (7) Nonfood grocery items.
- (8) Tobacco products.
- (9) Health and beauty aids.
- (10) Magazines and periodicals.

(c) Inclusion of Other Merchandise Items. - (1) The Secretary of Defense may authorize the sale in, at, or by commissary stores of merchandise not covered by a category specified in subsection (b). The Secretary shall notify Congress of all merchandise authorized for sale pursuant to this paragraph, as well as the removal of any such authorization.

(2) Notwithstanding paragraph (1), the Department of Defense military resale system shall continue to maintain the exclusive right to operate convenience stores, shopettes, and troop stores, including such stores established to support contingency operations.

(3)(A) A military exchange shall be the vendor for the sale of tobacco products in commissary stores and may be the vendor for such merchandise as may be authorized for sale in commissary stores under paragraph (1). Except as provided in subparagraph (B), subsections (d) and (e) shall not apply to the pricing of such an item when a military exchange serves as the vendor of the item. Commissary store and exchange prices shall be comparable for such an item.

(B) When a military exchange is the vendor of tobacco products or other merchandise authorized for sale in a commissary store under paragraph (1), any revenue above the cost of procuring the merchandise shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).

(d) Uniform Sales Price Surcharge. - The Secretary of Defense shall apply a uniform surcharge equal to five percent on the sales prices established under subsection (e) for each item of merchandise sold in, at, or by commissary stores.

(e) Sales Price Establishment. - (1) The Secretary of Defense shall establish the sales price of each item of merchandise sold in, at, or by commissary stores at the level that will recoup the actual product cost of the item.

(2) Any change in the pricing policies for merchandise sold in, at, or by commissary stores shall not take effect until the Secretary of Defense submits written notice of the proposed change to Congress and a period of 90 days of continuous session of Congress expires following the date on which notice was received. For purposes of this paragraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment or recess of more than three days to a day certain are excluded in a computation of such 90-day period.

(3) The sales price of merchandise and services sold in, at, or by commissary stores shall be adjusted to cover the following:

(A) The cost of first destination commercial transportation of the merchandise in the United States to the place of sale.

(B) The actual or estimated cost of shrinkage, spoilage, and pilferage of merchandise under the control of commissary stores.

(f) Special Rule for Brand-Name Commercial Items. - The Secretary of Defense may not use the exception provided in section 2304(c)(5) of this title regarding the procurement of a brand-name commercial item for resale in, at, or by commissary stores unless the commercial item is regularly sold outside of commissary stores under the same brand name as the name by which the commercial item will be sold in, at, or by commissary stores. In determining whether a brand name commercial item is regularly sold outside of commissary stores, the Secretary shall consider only sales of the item on a regional or national basis by commercial grocery or other retail operations consisting of multiple stores.

(g) Special Rules for Certain Merchandise. - (1) Notwithstanding the general requirement that merchandise sold in, at, or by commissary stores be commissary store inventory, the Secretary of Defense may authorize the sale of tobacco products as noncommissary store inventory. Except as provided in paragraph (2), subsections (d) and (e) shall not apply to the pricing of such merchandise items.

(2) When tobacco products are authorized for sale in a commissary store as noncommissary store inventory, any revenue above the cost of procuring the tobacco products shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).

(h) Use of Surcharge for Construction, Repair, Improvement, and Maintenance. - (1)(A) The Secretary of Defense may use the proceeds from the surcharges imposed under subsection (d) only -

(i) to acquire (including acquisition by lease), construct, convert, expand, improve, repair, maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

(ii) to cover environmental evaluation and construction costs related to activities described in clause (i), including costs for surveys, administration, overhead, planning, and design.

(B) In subparagraph (A), the term "physical infrastructure" includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

(2)(A) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of

surcharges under subsection (d) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

(B) In subparagraph (A), the term "construction", with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.

(3)(A) The Secretary of Defense may use the proceeds derived from surcharges imposed under subsection (d) in connection with sales of commissary merchandise through initiatives described in subparagraph (B) to offset the cost of such initiatives.

(B) Subparagraph (A) applies with respect to initiatives, utilizing temporary and mobile equipment, intended to provide members of reserve components, retired members, and other persons eligible for commissary benefits, but without reasonable access to commissary stores, improved access to commissary merchandise.

(4) The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the surcharges under subsection (d) for any use specified in paragraph (1), (2), or (3), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in such paragraph.

(5) Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall be available for the purposes set forth in paragraphs (1), (2), and (3):

(A) Sale of recyclable materials.

(B) Sale of excess and surplus property.

(C) License fees.

(D) Royalties.

(E) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.

-SOURCE-

(Added Pub. L. 99-661, div. A, title III, Sec. 313(a), Nov. 14, 1986, 100 Stat. 3852, Sec. 2486; amended Pub. L. 100-180, div. A, title III, Sec. 313(a)(1), (2), Dec. 4, 1987, 101 Stat. 1073, 1074; Pub. L. 104-201, div. A, title III, Sec. 342(a), Sept. 23, 1996, 110 Stat. 2489; Pub. L. 105-85, div. A, title III, Secs. 372(a)-(e), 373, Nov. 18, 1997, 111 Stat. 1706, 1707; Pub. L. 105-261, div. A, title III, Sec. 364, Oct. 17, 1998, 112 Stat. 1986; Pub. L. 106-65, div. A, title X, Sec. 1066(a)(21), Oct. 5, 1999, 113 Stat. 771; Pub. L. 106-398, Sec. 1 [[div. A], title III, Secs. 332(a), 334], Oct. 30, 2000, 114 Stat. 1654, 1654A-59, 1654A-60; Pub. L. 107-314, div. A, title X, Sec. 1041(a)(14), Dec. 2, 2002, 116 Stat. 2645; renumbered Sec. 2484 and amended Pub. L. 108-375, div. A, title VI, Sec. 651(a)(2), (4), (5), Oct. 28, 2004, 118 Stat. 1964, 1966; Pub. L. 109-364, div. A, title VI, Sec. 661, title X, Sec. 1071(g)(6), Oct. 17, 2006, 120 Stat. 2262, 2402; Pub. L. 110-417, [div. A], title VI, Sec. 641, Oct. 14, 2008, 122 Stat. 4493.)

-MISC1-

PRIOR PROVISIONS

A prior section 2484 was renumbered section 2483 of this title.

AMENDMENTS

2008 - Subsec. (h)(3) to (5). Pub. L. 110-417 added par. (3), redesignated former pars. (3) and (4) as (4) and (5), respectively,

and substituted "paragraph (1), (2), or (3)" for "paragraph (1) or (2)" in par. (4).

2006 - Pub. L. 109-364, Sec. 1071(g)(6), made technical correction to directory language of Pub. L. 108-375, Sec. 651(a)(5)(C). See 2004 Amendment notes for subsecs. (a) to (d) below.

Subsec. (c)(3). Pub. L. 109-364, Sec. 661(a), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), subsections" for "Subsections", and added subpar. (B).

Subsec. (g). Pub. L. 109-364, Sec. 661(b), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), subsections" for "Subsections", and added par. (2).

2004 - Pub. L. 108-375, Sec. 651(a)(2), (4), renumbered section 2486 of this title as this section.

Subsecs. (a) to (c). Pub. L. 108-375, Sec. 651(a)(5)(C), as amended by Pub. L. 109-364, Sec. 1071(g)(6), added subsecs. (a) to (c).

Pub. L. 108-375, Sec. 651(a)(5)(A), struck out subsecs. (a) to (c) which related to operation of the Defense Commissary Agency and the defense commissary system, use of funds to cover expenses of operating commissary stores and central product processing facilities, and supplemental funds for commissary operations, respectively.

Subsec. (d). Pub. L. 108-375, Sec. 651(a)(5)(C), as amended by Pub. L. 109-364, Sec. 1071(g)(6), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108-375, Sec. 651(a)(5)(B), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 108-375, Sec. 651(a)(5)(D), struck out "(consistent with this section and section 2685 of this title)" before period at end.

Subsec. (f). Pub. L. 108-375, Sec. 651(a)(5)(B), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 108-375, Sec. 651(a)(5)(E), substituted "Subsections (d) and (e)" for "Subsections (c) and (d)" before "shall not apply to the pricing".

Pub. L. 108-375, Sec. 651(a)(5)(A), (B), redesignated subsec. (f) as (g) and struck out heading and text of former subsec. (g), which related to the imposition of charges by the Secretary of Defense for the collection of dishonored checks.

Subsec. (h). Pub. L. 108-375, Sec. 651(a)(5)(F), added subsec. (h).

2002 - Subsec. (b)(12). Pub. L. 107-314 substituted ", except that the Secretary shall notify Congress of any addition of, or change in, a merchandise category under this paragraph." for ", except that the Secretary shall submit to Congress, not later than March 1 of each year, a report describing -

"(A) any addition of, or change in, a merchandise category proposed to be made under this paragraph during the one-year period beginning on that date; and

"(B) those additions and changes in merchandise categories actually made during the preceding one-year period."

2000 - Subsec. (b)(11), (12). Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 334(a)], added par. (11) and redesignated former par. (11) as (12).

Subsec. (c). Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 332(a)(1)], substituted "subsection (d) or section" for "section 2484(b) or".

Subsec. (d)(1). Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 332(a)(2)(A)], substituted "section 2685" for "sections 2484

and 2685".

Subsec. (d)(3). Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 332(a)(2)(B)], added par. (3).

Subsec. (f). Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 334(b)], struck out "(1)" before "Notwithstanding", substituted "tobacco products" for "items in the merchandise categories specified in paragraph (2)", and struck out par. (2) which read as follows: "The merchandise categories referred to in paragraph (1) are as follows:

"(A) Magazines and other periodicals.

"(B) Tobacco products."

1999 - Subsec. (c). Pub. L. 106-65 substituted "November 18, 1997," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998," in second sentence.

1998 - Subsec. (g). Pub. L. 105-261 added subsec. (g).

1997 - Subsec. (a). Pub. L. 105-85, Sec. 372(e)(1), inserted heading.

Subsec. (b). Pub. L. 105-85, Sec. 372(a)(1), inserted heading and substituted "Merchandise sold in, at, or by commissary stores may include items only in the following categories:" for "Merchandise sold in commissary stores may include items in the following categories:" in introductory provisions.

Subsec. (b)(11). Pub. L. 105-85, Sec. 372(a)(2), amended par. (11) generally. Prior to amendment, par. (11) read as follows: "Other categories designated in regulations prescribed by the Secretary of a military department and approved by the Secretary of Defense."

Subsec. (c). Pub. L. 105-85, Sec. 372(b), inserted heading, substituted "in, at, or by commissary stores." for "in commissary stores.", and inserted at end "Effective on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, the uniform percentage shall be equal to five percent and may not be changed except by a law enacted after such date."

Subsec. (d). Pub. L. 105-85, Sec. 372(c), inserted heading and amended text generally. Prior to amendment, text read as follows: "The Secretary of Defense shall prescribe regulations establishing uniform pricing policies for merchandise authorized for sale by this section. The policies in the regulations shall -

"(1) require the establishment of a sales price of each item of merchandise at a level which will recoup the actual product cost of the item (consistent with this section and sections 2484 and 2685 of this title); and

"(2) promote the lowest practical price of merchandise sold at commissary stores."

Subsec. (e). Pub. L. 105-85, Sec. 373, inserted at end "In determining whether a brand name commercial item is regularly sold outside of commissary stores, the Secretary shall consider only sales of the item on a regional or national basis by commercial grocery or other retail operations consisting of multiple stores."

Pub. L. 105-85, Sec. 372(e)(2), inserted heading and substituted "in, at, or by commissary stores" for "in commissary stores" in two places.

Subsec. (f). Pub. L. 105-85, Sec. 372(d), added subsec. (f).

1996 - Subsec. (e). Pub. L. 104-201 added subsec. (e).

1987 - Pub. L. 100-180, Sec. 313(a)(2), inserted "and pricing" in section catchline.

Subsec. (d). Pub. L. 100-180, Sec. 313(a)(1), added subsec. (d).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title X, Sec. 1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section

1071(g)(6) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108-375 as enacted.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 332(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-60, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2001."

REGULATIONS

Pub. L. 100-180, div. A, title III, Sec. 313(b), Dec. 4, 1987, 101 Stat. 1074, required Secretary of Defense to prescribe regulations required by subsec. (d) of this section not later than 90 days after Dec. 4, 1987.

SAVINGS PROVISION

Pub. L. 104-201, div. A, title III, Sec. 342(b), Sept. 23, 1996, 110 Stat. 2489, provided that: "Section 2486(e) [now 2484(e)] of title 10, United States Code, as added by subsection (a), shall not affect the terms, conditions, or duration of any contract or other agreement entered into by the Secretary of Defense before the date of the enactment of this Act [Sept. 23, 1996] for the procurement of commercial items for resale in commissary stores."

TEST PROGRAM OF SALE OF CERTAIN ITEMS IN COMMISSARY STORES

Pub. L. 108-375, div. A, title VI, Sec. 651(g), Oct. 28, 2004, 118 Stat. 1972, provided that:

"(1) The Secretary of Defense may conduct a test program involving the sale of telephone cards, film, and one-time use cameras in not less than 10 commissary stores for a period selected by the Secretary, but not less than six months.

"(2) Within 90 days after the completion of the first year of the test program or within 90 days after the completion of the test program, whichever occurs first, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the test program. The report shall include an analysis of the impact of the sale of such items on the exchange dividend and such recommendations as the Secretary considers appropriate regarding legislative changes necessary to expand the sale of such items in commissary stores."

REPORT ON MERCHANDISE CATEGORIES

Pub. L. 105-85, div. A, title III, Sec. 372(f), Nov. 18, 1997, 111 Stat. 1707, provided that, not later than 30 days after Nov. 18, 1997, the Secretary of Defense was to submit to Congress a report specifying the merchandise categories authorized for sale sold in, at, or by commissary stores pursuant to regulations prescribed under subsection (b)(11) of this section, as in effect before Nov. 18, 1997.

-End-

-CITE-

10 USC Sec. 2485

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES
SUBCHAPTER I - DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2485. Commissary stores: operation

-STATUTE-

(a) Private Operation. - (1) Under such regulations as the Secretary of Defense may approve, private persons may operate selected commissary store functions, except that such functions may not include functions relating to the procurement of products to be sold in a commissary store or functions relating to the overall management of a commissary system or the management of a commissary store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.

(2) Any change to private operation of a commissary store function that is being performed by more than 10 Department of Defense civilian employees shall not take effect until the end of the 75-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the change. Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A-76 relating to the possible contracting out of commissary store functions.

(b) Contracts With Other Agencies and Instrumentalities. - (1) The Defense Commissary Agency, and any other agency of the Department of Defense that supports the operation of the commissary system, may enter into a contract or other agreement with another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain services beneficial to the efficient management and operation of the commissary system. However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term is defined in section 107 of title 41.

(2) A commissary store operated by a nonappropriated fund instrumentality of the Department of Defense shall be operated in accordance with section 2483 of this title. Subject to such section, the Secretary of Defense may authorize a transfer of goods, supplies, and facilities of, and funds appropriated for, the Defense Commissary Agency or any other agency of the Department of Defense that supports the operation of the commissary system to a nonappropriated fund instrumentality for the operation of a commissary store.

(c) Governing Board. - (1) Notwithstanding section 192(d) of this title, the Secretary of Defense shall establish a governing board for the commissary system to provide advice to the Secretary regarding the prudent operation of the commissary system and to assist in the overall supervision of the Defense Commissary Agency. The Secretary may authorize the board to have such supervisory authority as the Secretary considers appropriate to permit the board to carry out its responsibilities.

(2) The Secretary of Defense shall determine the membership of the governing board, which shall include, at a minimum, appropriate representatives from each military department. The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or

knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries.

(3) The governing board shall be accountable only to the Secretary of Defense and to the civilian officer of the Department of Defense who is assigned the responsibility for the overall supervision of the Defense Commissary Agency pursuant to section 192(a) of this title. The Director of the Defense Commissary Agency shall be accountable to and report to the board.

(d) Assignment of Active Duty Members. - (1) Except as provided in paragraph (2), members of the armed forces on active duty may not be assigned to the operation of a commissary store.

(2)(A) The Secretary of Defense may assign an officer on the active-duty list to serve as the Director of the Defense Commissary Agency.

(B) Not more than 18 members (in addition to the officer referred to in subparagraph (A)) of the armed forces on active duty may be assigned to the Defense Commissary Agency. Members who may be assigned under this subparagraph to regional headquarters of the agency shall be limited to enlisted members assigned to duty as advisers in the regional headquarters responsible for overseas commissaries and to veterinary specialists.

(e) Reimbursement for Use of Commissary Facilities by Military Departments. - (1) The Secretary of a military department shall pay the Defense Commissary Agency the amount determined under paragraph (2) for any use of a commissary facility by the military department for a purpose other than commissary sales or operations in support of commissary sales.

(2) The amount payable under paragraph (1) for use of a commissary facility by a military department shall be equal to the share of depreciation of the facility that is attributable to that use, as determined under regulations prescribed by the Secretary of Defense.

(3) The Director of the Defense Commissary Agency shall credit amounts paid under paragraph (1) for use of a facility to an appropriate account to which proceeds of a surcharge applied under section 2484(d) of this title are credited.

(4) This subsection applies with respect to a commissary facility that is acquired, constructed, converted, expanded, installed, or otherwise improved (in whole or in part) with the proceeds of a surcharge applied under section 2484(d) of this title.

(f) Donation of Unusable Food. - (1) The Secretary of Defense may donate food described in paragraph (2) to any of the following entities:

(A) A charitable nonprofit food bank that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

(B) A State or local agency that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

(C) A chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

(D) A not-for-profit organization that provides care for homeless veterans and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

(2) Food that may be donated under this subsection is commissary

store food, mess food, meals ready-to-eat (MREs), rations known as humanitarian daily rations (HDRs), and other food available to the Secretary of Defense that -

(A) is certified as edible by appropriate food inspection technicians;

(B) would otherwise be destroyed as unusable; and

(C) in the case of commissary store food, is unmarketable and unsaleable.

(3) In the case of commissary store food, a donation under this subsection shall take place at the site of the commissary store that is donating the food.

(4) This subsection does not authorize any service (including transportation) to be provided in connection with a donation under this subsection.

(g) Collection of Dishonored Checks. - (1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

(i) The person who presented the check.

(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person's eligibility to make purchases at a commissary store.

(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

(5) In this subsection, the term "commissary trust revolving fund" means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.

(h) Release of Certain Commercially Valuable Information to Public. - (1) The Secretary of Defense may limit the release to the public of any information described in paragraph (2) if the Secretary determines that it is in the best interest of the Department of Defense to limit the release of such information. If the Secretary determines to limit the release of any such information, the Secretary may provide for limited release of such information in accordance with paragraph (3).

(2) Paragraph (1) applies to the following:

(A) Information contained in the computerized business systems of commissary stores or the Defense Commissary Agency that is collected through or in connection with the use of electronic scanners in commissary stores, including the following information:

(i) Data relating to sales of goods or services.

(ii) Demographic information on customers.

(iii) Any other information pertaining to commissary

transactions and operations.

(B) Business programs, systems, and applications (including software) relating to commissary operations that were developed with funding derived from commissary surcharges.

(3)(A) The Secretary of Defense may, using competitive procedures, enter into a contract to sell information described in paragraph (2).

(B) The Secretary of Defense may release, without charge, information on an item sold in commissary stores to the manufacturer or producer of that item or an agent of the manufacturer or producer.

(C) The Secretary of Defense shall establish performance benchmarks and shall submit information on customer satisfaction and performance data to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(D) The Secretary of Defense may, by contract entered into with a business, grant to the business a license to use business programs referred to in paragraph (2)(B), including software used in or comprising any such program. The fee charged for the license shall be based on the costs of similar programs developed and marketed by businesses in the private sector, determined by means of surveys.

(E) Each contract entered into under this paragraph shall specify the amount to be paid for information released or a license granted under the contract, as the case may be.

(4) Information described in paragraph (2) may not be released, under paragraph (3) or otherwise, in a form that identifies any customer or that provides information making it possible to identify any customer.

(5) Amounts received by the Secretary under this section shall be credited to funds derived from commissary surcharges applied under section 2484(e) of this title, shall be merged with those funds, and shall be available for the same purposes as the funds with which merged.

-SOURCE-

(Aug. 10, 1956, ch. 1041, 70A Stat. 141, Sec. 2482; Pub. L. 100-456, div. A, title III, Sec. 321, Sept. 29, 1988, 102 Stat. 1952; Pub. L. 104-106, div. A, title III, Sec. 331(a), Feb. 10, 1996, 110 Stat. 260; Pub. L. 104-201, div. A, title III, Sec. 341(b), Sept. 23, 1996, 110 Stat. 2489; Pub. L. 105-261, div. A, title III, Secs. 361(b), 363(a), Oct. 17, 1998, 112 Stat. 1984, 1985; Pub. L. 108-136, div. A, title VI, Sec. 653, Nov. 24, 2003, 117 Stat. 1522; renumbered Sec. 2485 and amended Pub. L. 108-375, div. A, title VI, Sec. 651(a)(2), (6), (7), Oct. 28, 2004, 118 Stat. 1964, 1968; Pub. L. 109-163, div. A, title VI, Sec. 672, Jan. 6, 2006, 119 Stat. 3319; Pub. L. 111-350, Sec. 5(b)(35), Jan. 4, 2011, 124 Stat. 3845.)

-MISC1-

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 2482 | [Uncodified]. | Aug. 1, 1953, ch. 305, |

This section is codified as permanent law on the basis of an opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense, dated September 28, 1954. The words "and privately owned organizations" are omitted as surplusage since under 1 U.S.C. 1 "person" includes such an organization.

PRIOR PROVISIONS

A prior section 2485, added Pub. L. 99-145, title XIV, Sec. 1460(a), Nov. 8, 1985, 99 Stat. 764; amended Pub. L. 101-510, div. A, title III, Sec. 324(a), (b)(1), Nov. 5, 1990, 104 Stat. 1530; Pub. L. 104-201, div. A, title III, Sec. 365, Sept. 23, 1996, 110 Stat. 2494, related to donation of unusable food from commissary stores and other activities, prior to repeal by Pub. L. 108-375, div. A, title VI, Sec. 651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

A prior section 2486 was renumbered section 2484 of this title.

AMENDMENTS

2011 - Subsec. (b)(1). Pub. L. 111-350 substituted "section 107 of title 41" for "section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))".

2006 - Subsec. (a)(2). Pub. L. 109-163 inserted at end "Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A-76 relating to the possible contracting out of commissary store functions."

2004 - Pub. L. 108-375, Sec. 651(a)(2), (6), renumbered section 2482 of this title as this section.

Subsec. (b)(2). Pub. L. 108-375, Sec. 651(a)(7)(A), substituted "section 2483" for "section 2484".

Subsec. (c)(2). Pub. L. 108-375, Sec. 651(a)(7)(B), inserted at end "The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries."

Subsecs. (d) to (h). Pub. L. 108-375, Sec. 651(a)(7)(C), added subsecs. (d) to (h).

2003 - Subsec. (a). Pub. L. 108-136 designated existing provisions as par. (1), inserted first sentence, added par. (2), and struck out former first and second sentences which read as follows: "Private persons may operate commissary stores under such regulations as the Secretary of Defense may approve. A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store."

1998 - Subsec. (b)(1). Pub. L. 105-261, Sec. 363(a), inserted at end "However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))."

Subsec. (c). Pub. L. 105-261, Sec. 361(b), added subsec. (c).

1996 - Pub. L. 104-106 struck out "private" after "stores:" in section catchline, designated existing text as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104-201 substituted "another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain services" for "another department, agency, or instrumentality of the Department of Defense or another Federal agency to provide services".

1988 - Pub. L. 100-456 inserted at end "A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title III, Sec. 363(b), Oct. 17, 1998, 112 Stat. 1986, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to services provided or obtained on or after the date of the enactment of this Act [Oct. 17, 1998]."

DEMONSTRATION PROGRAM FOR OPERATION OF CERTAIN COMMISSARY STORES BY NONAPPROPRIATED FUND INSTRUMENTALITIES

Pub. L. 102-484, div. A, title III, Sec. 363, Oct. 23, 1992, 106 Stat. 2380, required the Secretary of Defense to establish a demonstration program to determine the feasibility of having nonappropriated fund instrumentalities operate commissary stores at military installations and provided for termination of the program and submission of a report on its implementation, not later than the expiration of the one-year period beginning on Oct. 23, 1992.

-End-

-CITE-

10 USC SUBCHAPTER II - RELATIONSHIP, CONTINUATION, AND
COMMON POLICIES OF DEFENSE COMMISSARY AND
EXCHANGE SYSTEMS 01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES
SUBCHAPTER II - RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF
DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

SUBCHAPTER II - RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF
DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-MISC1-

Sec.
2487. Relationship between defense commissary system and
exchange stores system.
2488. Combined exchange and commissary stores.

2489. Overseas commissary and exchange stores: access and purchase restrictions.

AMENDMENTS

2004 - Pub. L. 108-375, div. A, title VI, Sec. 651(b)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2487 to 2489.

-End-

-CITE-

10 USC Sec. 2487

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES

SUBCHAPTER II - RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2487. Relationship between defense commissary system and exchange stores system

-STATUTE-

(a) Separate Operation of Systems. - (1) Except as provided in paragraph (2), the defense commissary system and the exchange stores system shall be operated as separate systems of the Department of Defense.

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

(A) Combined exchange and commissary stores operated under the authority provided by section 2489 of this title.

(B) NEXMART stores of the Navy Exchange Service Command established before October 1, 2003.

(b) Consolidation or Other Organizational Changes of Defense Retail Systems. - (1) The operation and administration of the defense retail systems may not be consolidated or otherwise merged unless the consolidation or merger is specifically authorized by an Act of Congress.

(2) In this subsection, the term "defense retail systems" means the defense commissary system and exchange stores system and other revenue-generating facilities operated by nonappropriated fund instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

-SOURCE-

(Added Pub. L. 108-375, div. A, title VI, Sec. 651(b)(1), Oct. 28, 2004, 118 Stat. 1971.)

-MISC1-

PRIOR PROVISIONS

A prior section 2487, added Pub. L. 99-661, div. A, title III, Sec. 313(a), Nov. 14, 1986, 100 Stat. 3852; amended Pub. L. 102-484, div. A, title III, Sec. 364(a), (b)(2), Oct. 23, 1992, 106 Stat. 2381, 2382; Pub. L. 104-106, div. A, title III, Sec. 332,

Feb. 10, 1996, 110 Stat. 260; Pub. L. 107-107, div. A, title III, Sec. 333(a), Dec. 28, 2001, 115 Stat. 1058, related to release of certain commercially valuable information to the public by the Secretary of Defense with respect to commissary stores, prior to repeal by Pub. L. 108-375, div. A, title VI, Sec. 651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

-End-

-CITE-

10 USC Sec. 2488

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER II - RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF
DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2488. Combined exchange and commissary stores

-STATUTE-

(a) Authority. - The Secretary of Defense may authorize a nonappropriated fund instrumentality to operate a military exchange and a commissary store as a combined exchange and commissary store on a military installation.

(b) Limitations. - (1) Not more than ten combined exchange and commissary stores may be operated pursuant to this section.

(2) The Secretary may select a military installation for the operation of a combined exchange and commissary store under this section only if -

(A) the installation is to be closed, or has been or is to be realigned, under a base closure law; or

(B) a military exchange and a commissary store are operated at the installation by separate entities at the time of, or immediately before, such selection and it is not economically feasible to continue that separate operation.

(c) Operation at Carswell Field. - Combined exchange and commissary stores operated under this section shall include the combined exchange and commissary store that is operated at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field, Texas, under the authority provided in section 375 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2736).

(d) Adjustments and Surcharges. - Adjustments to, and surcharges on, the sales price of a grocery food item sold in a combined exchange and commissary store under this section shall be provided for in accordance with the same laws that govern such adjustments and surcharges for items sold in a commissary store of the Defense Commissary Agency.

(e) Use of Appropriated Funds. - (1) If a nonappropriated fund instrumentality incurs a loss in operating a combined exchange and commissary store at a military installation under this section as a result of the requirement set forth in subsection (d), the Secretary may authorize a transfer of funds available for the

Defense Commissary Agency to the nonappropriated fund instrumentality to offset the loss.

(2) The total amount of appropriated funds transferred during a fiscal year to support the operation of a combined exchange and commissary store at a military installation under this section may not exceed an amount that is equal to 25 percent of the amount of appropriated funds that was provided for the operation of the commissary store of the Defense Commissary Agency on that installation during the last full fiscal year of operation of that commissary store.

(f) Nonappropriated Fund Instrumentality Defined. - In this section, the term "nonappropriated fund instrumentality" means the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

-SOURCE-

(Added Pub. L. 104-106, div. A, title III, Sec. 336(a)(1), Feb. 10, 1996, 110 Stat. 263, Sec. 2490a; amended Pub. L. 105-85, div. A, title X, Sec. 1061(d), Nov. 18, 1997, 111 Stat. 1891; Pub. L. 108-136, div. A, title X, Sec. 1043(c)(2), Nov. 24, 2003, 117 Stat. 1611; renumbered Sec. 2488, Pub. L. 108-375, div. A, title VI, Sec. 651(b)(3), Oct. 28, 2004, 118 Stat. 1971; Pub. L. 111-383, div. A, title X, Sec. 1075(b)(37), Jan. 7, 2011, 124 Stat. 4371.)

-REFTEXT-

REFERENCES IN TEXT

Section 375 of the National Defense Authorization Act for Fiscal Year 1995, referred to in subsec. (c), is section 375 of Pub. L. 103-337, div. A, title III, Oct. 5, 1994, 108 Stat. 2736, as amended, which is not classified to the Code.

-MISC1-

PRIOR PROVISIONS

A prior section 2488 was renumbered section 2495 of this title.

AMENDMENTS

2011 - Subsec. (f). Pub. L. 111-383 substituted "armed forces" for "Armed Forces" in two places.

2004 - Pub. L. 108-375 renumbered section 2490a of this title as this section.

2003 - Subsec. (f). Pub. L. 108-136, Sec. 1043(c)(2), substituted "Nonappropriated Fund Instrumentality Defined. - In this section, the term" for "Definitions. - In this section:

"(1) The term"

and struck out par. (2) which read as follows: "The term 'base closure law' has the meaning given such term by section 2667(h) of this title."

1997 - Subsec. (f)(2). Pub. L. 105-85 substituted "section 2667(h)" for "section 2667(g)".

-End-

-CITE-

10 USC Sec. 2489

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER II - RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF
DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

-HEAD-

Sec. 2489. Overseas commissary and exchange stores: access and
purchase restrictions

-STATUTE-

(a) General Authority. - (1) The Secretary of Defense may establish restrictions on the ability of eligible patrons of commissary and exchange stores located outside of the United States to purchase certain merchandise items (or the quantity of certain merchandise items) otherwise included within an authorized merchandise category if the Secretary determines that such restrictions are necessary to prevent the resale of such merchandise in violation of treaty obligations of the United States or host nation laws (to the extent such laws are not inconsistent with United States laws).

(2) In establishing a quantity or other restriction, the Secretary -

(A) may not discriminate among the various categories of eligible patrons of the commissary and exchange system; and

(B) shall ensure that the restriction is consistent with the purpose of the overseas commissary and exchange system to provide reasonable access for eligible patrons to purchase merchandise items made in the United States.

(b) Controlled Item Lists. - For each location outside the United States that is served by the commissary system or the exchange system, the Secretary of Defense may maintain a list of controlled merchandise items, except that, after October 17, 1998, the Secretary may not change the list to add a merchandise item unless, before making the change, the Secretary submits to Congress a notice of the proposed addition and the reasons for the addition of the item.

(c) Notification of Conditions Necessitating Restrictions. - The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.

-SOURCE-

(Added Pub. L. 105-261, div. A, title III, Sec. 365(a), Oct. 17, 1998, 112 Stat. 1986, Sec. 2492; amended Pub. L. 106-65, div. A, title X, Sec. 1066(a)(22), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107-314, div. A, title X, Sec. 1041(a)(15), Dec. 2, 2002, 116 Stat. 2645; renumbered Sec. 2489, Pub. L. 108-375, div. A, title VI, Sec. 651(b)(3), Oct. 28, 2004, 118 Stat. 1971.)

-MISC1-

PRIOR PROVISIONS

A prior section 2489 was renumbered section 2495a of this title.

A prior section 2489a was renumbered section 2495b of this title.
A prior section 2490 was renumbered section 2868 of this title.
A prior section 2490a was renumbered section 2488 of this title.
Another prior section 2490a was renumbered section 2783 of this title.

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2492 of this title as this section.

2002 - Subsec. (c). Pub. L. 107-314 added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States."

1999 - Subsec. (b). Pub. L. 106-65 substituted "October 17, 1998" for "the date of the enactment of this section".

-End-

-CITE-

10 USC SUBCHAPTER III - MORALE, WELFARE, AND RECREATION
PROGRAMS AND NONAPPROPRIATED FUND
INSTRUMENTALITIES 01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES
SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-MISC1-

- Sec.
2491. Uniform funding and management of morale, welfare, and recreation programs.
- 2491a. Department of Defense golf courses: limitation on use of appropriated funds.
- 2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.
- 2491c. Retention of morale, welfare, and recreation funds by military installations: limitation.
2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.
- 2492a. Limitation on Department of Defense entities competing with private sector in offering personal information services.
2493. Fisher Houses: administration as nonappropriated fund instrumentality.
2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation

- purposes.
2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.
- 2495a. Overseas package stores: treatment of United States wines.
- 2495b. Sale or rental of sexually explicit material prohibited.

AMENDMENTS

2009 - Pub. L. 111-84, div. A, title VI, Sec. 651(b), Oct. 28, 2009, 123 Stat. 2369, added item 2492a.

2004 - Pub. L. 108-375, div. A, title VI, Sec. 651(c)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2491 to 2495b.

-End-

-CITE-

10 USC Sec. 2491

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2491. Uniform funding and management of morale, welfare, and recreation programs

-STATUTE-

(a) Authority for Uniform Funding and Management. - Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) Conditions on Availability. - Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

(c) Conversion of Employment Positions. - (1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position

because of the failure to provide such consent.

(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.

(4) In this subsection, the term "an employee of a nonappropriated fund instrumentality" means an employee described in section 2105(c) of title 5.

-SOURCE-

(Added Pub. L. 107-314, div. A, title III, Sec. 323(a), Dec. 2, 2002, 116 Stat. 2510, Sec. 2494; renumbered Sec. 2491, Pub. L. 108-375, div. A, title VI, Sec. 651(c)(2), Oct. 28, 2004, 118 Stat. 1972.)

-MISC1-

PRIOR PROVISIONS

A prior section 2491 was renumbered section 2500 of this title.

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2494 of this title as this section.

-End-

-CITE-

10 USC Sec. 2491a

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2491a. Department of Defense golf courses: limitation on use of appropriated funds

-STATUTE-

(a) Limitation. - Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to equip, operate, or maintain a golf course at a facility or installation of the Department of Defense.

(b) Exceptions. - (1) Subsection (a) does not apply to a golf course at a facility or installation outside the United States or at a facility or installation inside the United States at a location designated by the Secretary of Defense as a remote and isolated location.

(2) The Secretary of Defense shall prescribe regulations governing the use of appropriated funds under this subsection.

-SOURCE-

(Added Pub. L. 103-160, div. A, title III, Sec. 312(a), Nov. 30, 1993, 107 Stat. 1618, Sec. 2246; renumbered Sec. 2491a, Pub. L. 108-375, div. A, title VI, Sec. 651(d), Oct. 28, 2004, 118 Stat. 1972.)

-MISC1-

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2246 of this title as this section.

-End-

-CITE-

10 USC Sec. 2491b

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2491b. Use of appropriated funds for operation of Armed Forces
Recreation Center, Europe: limitation

-STATUTE-

(a) Limitation. - Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to operate the Armed Forces Recreation Center, Europe.

(b) Exception. - Subsection (a) does not apply to the use of funds for the payment of utilities, the maintenance, repair, or renovation of real property, and the transportation of products made in the United States.

-SOURCE-

(Added Pub. L. 103-337, div. A, title III, Sec. 372(a), Oct. 5, 1994, 108 Stat. 2735, Sec. 2247; amended Pub. L. 105-85, div. A, title III, Sec. 375, Nov. 18, 1997, 111 Stat. 1708; renumbered Sec. 2491b, Pub. L. 108-375, div. A, title VI, Sec. 651(d), Oct. 28, 2004, 118 Stat. 1972.)

-MISC1-

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2247 of this title as this section.

1997 - Subsec. (b). Pub. L. 105-85 substituted "the maintenance, repair, or renovation of real property, and the transportation" for "real property maintenance, and transportation".

-End-

-CITE-

10 USC Sec. 2491c

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2491c. Retention of morale, welfare, and recreation funds by
military installations: limitation

-STATUTE-

Amounts may not be retained in a nonappropriated morale, welfare,
and recreation account of a military installation of an armed force
in excess of the amount necessary to meet cash requirements of that
installation. Amounts in excess of that amount shall be transferred
to a single nonappropriated morale, welfare, and recreation account
for that armed force. This section does not apply to the Coast
Guard.

-SOURCE-

(Added Pub. L. 103-337, div. A, title III, Sec. 373(a), Oct. 5,
1994, 108 Stat. 2736, Sec. 2219; amended Pub. L. 104-106, div. A,
title III, Sec. 341, Feb. 10, 1996, 110 Stat. 265; renumbered Sec.
2491c, Pub. L. 108-375, div. A, title VI, Sec. 651(d), Oct. 28,
2004, 118 Stat. 1972.)

-MISC1-

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2219 of this title as
this section.

1996 - Pub. L. 104-106, in first sentence, substituted "an armed
force" for "a military department", in second sentence, substituted
"a single, nonappropriated morale, welfare, and recreation account
for that armed force" for "a single, department-wide
nonappropriated morale, welfare, and recreation account of the
military department", and inserted after second sentence "This
section does not apply to the Coast Guard."

-TRANS-

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.

-End-

-CITE-

10 USC Sec. 2492

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2492. Nonappropriated fund instrumentalities: contracts with
other agencies and instrumentalities to provide and obtain goods
and services

-STATUTE-

An agency or instrumentality of the Department of Defense that
supports the operation of the exchange system, or the operation of
a morale, welfare, and recreation system, of the Department of
Defense may enter into a contract or other agreement with another
element of the Department of Defense or with another Federal
department, agency, or instrumentality to provide or obtain goods
and services beneficial to the efficient management and operation
of the exchange system or that morale, welfare, and recreation
system.

-SOURCE-

(Added Pub. L. 104-201, div. A, title III, Sec. 341(a)(1), Sept.
23, 1996, 110 Stat. 2488, Sec. 2482a; renumbered Sec. 2492, Pub. L.
108-375, div. A, title VI, Sec. 651(c)(3), Oct. 28, 2004, 118 Stat.
1972.)

-MISC1-

PRIOR PROVISIONS

A prior section 2492 was renumbered section 2489 of this title.

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2482a of this title as
this section.

-End-

-CITE-

10 USC Sec. 2492a

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2492a. Limitation on Department of Defense entities competing with private sector in offering personal information services

-STATUTE-

(a) Limitation. - (1) Notwithstanding section 2492 of this title, the Secretary of Defense may not authorize a Department of Defense entity to offer or provide personal information services directly to users using Department resources, personnel, or equipment, or compete for contracts to provide such personal information services directly to users, if users will be charged a fee for the personal information services to recover the cost incurred to provide the services or to earn a profit.

(2) The limitation in paragraph (1) shall not be construed to prohibit or preclude the use of Department resources, personnel, or equipment to administer or facilitate personal information services contracts with private contractors.

(b) Exceptions. - The limitation in subsection (a) shall not apply if the Secretary of Defense determines that -

(1) a private sector vendor is not available to provide the personal information services at specific locations;

(2) the interests of the user population would be best served by allowing the Government to provide such services; or

(3) circumstances (as specified by the Secretary for purposes of this section) are such that the provision of such services by a Department entity is in the best interest of the Government or military users in general.

(c) Personal Information Services Defined. - In this section, the term "personal information services" means the provision of Internet, telephone, or television services to consumers.

-SOURCE-

(Added Pub. L. 111-84, div. A, title VI, Sec. 651(a), Oct. 28, 2009, 123 Stat. 2368.)

-MISC1-

SAVINGS PROVISION

Pub. L. 111-84, div. A, title VI, Sec. 651(c), Oct. 28, 2009, 123 Stat. 2369, provided that: "Section 2492a of title 10, United States Code, as added by subsection (a), does not affect the validity or terms of any contract for the provision of personal information services entered into before the date of the enactment of this Act [Oct. 28, 2009]."

-End-

-CITE-

10 USC Sec. 2493

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2493. Fisher Houses: administration as nonappropriated fund instrumentality

-STATUTE-

(a) Fisher Houses and Suites Defined. - In this section:

(1) The term "Fisher House" means a housing facility that -

(A) is located in proximity to a health care facility of the Army, the Air Force, or the Navy;

(B) is available for residential use on a temporary basis by patients of that health care facility, members of the families of such patients, and others providing the equivalent of familial support for such patients; and

(C) is constructed and donated by -

(i) the Zachary and Elizabeth M. Fisher Armed Services Foundation; or

(ii) another source, if the Secretary of the military department concerned designates the housing facility as a Fisher House.

(2) The term "Fisher Suite" means one or more rooms that -

(A) meet the requirements of subparagraphs (A) and (B) of paragraph (1);

(B) are constructed, altered, or repaired and donated by a source described in subparagraph (C) of that paragraph; and

(C) are designated by the Secretary of the military department concerned as a Fisher Suite.

(b) Nonappropriated Fund Instrumentality. - The Secretary of each military department shall administer all Fisher Houses and Fisher Suites associated with health care facilities of that military department as a nonappropriated fund instrumentality of the United States.

(c) Governance. - The Secretary of each military department shall establish a system for the governance of the nonappropriated fund instrumentality required by subsection (b) for that military department.

(d) Central Fund. - The Secretary of each military department shall establish a single fund as the source of funding for the operation, maintenance, and improvement of all Fisher Houses and Fisher Suites of the nonappropriated fund instrumentality required by subsection (b) for that military department.

(e) Acceptance of Contributions; Imposition of Fees. - (1) The Secretary of a military department may -

(A) accept money, property, and services donated for the support of a Fisher House or Fisher Suite associated with health care facilities of that military department; and

(B) may impose fees relating to the use of such Fisher Houses and Fisher Suites.

(2) All monetary donations, and the proceeds of the disposal of any other donated property, accepted by the Secretary of a military department under this subsection shall be credited to the fund established under subsection (d) for the Fisher Houses and Fisher Suites associated with health care facilities of that military department and shall be available to that Secretary to support all such Fisher Houses and Fisher Suites.

(f) Base Operating Support. - The Secretary of a military department may provide base operating support for Fisher Houses associated with health care facilities of that military department.

(g) Annual Report. - Not later than January 15 of each year, the

Secretary of each military department shall submit to Congress a report describing the operation of Fisher Houses and Fisher Suites associated with health care facilities of that military department. The report shall include, at a minimum, the following:

(1) The amount in the fund established by that Secretary under subsection (d) as of October 1 of the previous year.

(2) The operation of the fund during the preceding fiscal year, including -

(A) all gifts, fees, and interest credited to the fund; and

(B) all disbursements from the fund.

(3) The budget for the operation of the Fisher Houses and Fisher Suites for the fiscal year in which the report is submitted.

-SOURCE-

(Added Pub. L. 105-261, div. A, title IX, Sec. 906(a)(1), Oct. 17, 1998, 112 Stat. 2093; amended Pub. L. 106-398, Sec. 1 [[div. A], title IX, Sec. 914(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-230; Pub. L. 107-314, div. A, title III, Sec. 321, Dec. 2, 2002, 116 Stat. 2510.)

-MISC1-

AMENDMENTS

2002 - Subsec. (f). Pub. L. 107-314 amended heading and text of subsec. (f) generally. Prior to amendment text read as follows: "The Secretary of the Navy shall provide base operating support for Fisher Houses associated with health care facilities of the Navy. The level of the support shall be equivalent to the base operating support that the Secretary provides for morale, welfare, and recreation category B community activities (as defined in regulations, prescribed by the Secretary, that govern morale, welfare, and recreation activities associated with Navy installations)."

2000 - Subsecs. (f), (g). Pub. L. 106-398 added subsec. (f) and redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, Sec. 1 [[div. A], title IX, Sec. 914(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-230, provided that: "The amendments made by subsection (a) [amending this section] shall be effective as of October 17, 1998, as if included in section 2493 of title 10, United States Code, as enacted by section 906(a) of Public Law 105-261."

SAVINGS PROVISIONS FOR CERTAIN NAVY EMPLOYEES

Pub. L. 106-398, Sec. 1 [[div. A], title IX, Sec. 914(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-230, provided that:

"(1) The Secretary of the Navy may continue to employ, and pay out of appropriated funds, any employee of the Navy in the competitive service who, as of October 17, 1998, was employed by the Navy in a position at a Fisher House administered by the Navy, but only for so long as the employee is continuously employed in that position.

"(2) After a person vacates a position in which the person was continued to be employed under the authority of paragraph (1), a person employed in that position shall be employed as an employee of a nonappropriated fund instrumentality of the United States and may not be paid for services in that position out of appropriated funds.

"(3) In this subsection:

"(A) The term 'Fisher House' has the meaning given the term in section 2493(a)(1) of title 10, United States Code.

"(B) The term 'competitive service' has the meaning given the term in section 2102 of title 5, United States Code."

[Pub. L. 106-398, Sec. 1 [[div. A], title IX, Sec. 914(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-230, provided that:

"Subsection (b) [set out above] applies with respect to the pay period that includes October 17, 1998, and subsequent pay periods."]

ESTABLISHMENT OF FUNDS AND FUNDING TRANSITION

Pub. L. 105-261, div. A, title IX, Sec. 906(b)-(e), Oct. 17, 1998, 112 Stat. 2095, provided that:

"(b) Establishment of Funds. - Not later than 90 days after the date of the enactment of this Act [Oct. 17, 1998], the Secretary of each military department shall -

"(1) establish the fund required under section 2493(d) of title 10, United States Code (as added by subsection (a)); and

"(2) close the Fisher House Trust Fund established for that department under section 2221 of such title and transfer the amounts in the closed fund to the newly established fund.

"(c) Funding Transition. - (1) Of the amount authorized to be appropriated pursuant to section 301(2) [112 Stat. 1960] for operation and maintenance for the Navy, the Secretary of the Navy shall transfer to the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)), such amount as that Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites associated with health care facilities of the Department of the Navy.

"(2) Of the amount authorized to be appropriated pursuant to section 301(4) for operation and maintenance for the Air Force, the Secretary of the Air Force shall transfer to the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)), such amount as that Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites associated with health care facilities of the Department of the Air Force.

"(d) Reporting Requirements. - The Secretary of each military department, upon completing the actions required of the Secretary under subsections (b) and (c), shall submit to Congress a report containing -

"(1) the certification of that Secretary that those actions have been completed; and

"(2) a statement of the amount deposited in the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)).

"(e) Availability of Transferred Amounts. - Amounts transferred under subsection (b) or (c) to a fund established under section 2493(d) of title 10, United States Code (as added by subsection (a)), shall be available without fiscal year limitation for the purposes for which the fund is established and shall be administered as nonappropriated funds."

-End-

-CITE-

10 USC Sec. 2494

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2494. Nonappropriated fund instrumentalities: furnishing
utility services for morale, welfare, and recreation purposes

-STATUTE-

Appropriations for the Department of Defense may be used to
provide utility services for -

(1) buildings on military installations authorized by
regulation to be used for morale, welfare, and recreation
purposes; and

(2) other morale, welfare, and recreation activities for
members of the armed forces.

-SOURCE-

(Added Pub. L. 108-375, div. A, title VI, Sec. 651(c)(4), Oct. 28,
2004, 118 Stat. 1972.)

-MISC1-

PRIOR PROVISIONS

A prior section 2494 was renumbered section 2491 of this title.

-End-

-CITE-

10 USC Sec. 2495

01/07/2011

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES

SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2495. Nonappropriated fund instrumentalities: purchase of
alcoholic beverages

-STATUTE-

(a) The Secretary of Defense shall provide that -

(1) covered alcoholic beverage purchases made for resale on a
military installation located in the United States shall be made
from the most competitive source and distributed in the most
economical manner, price and other factors considered, except
that

(2) in the case of malt beverages and wine, such purchases
shall be made from, and delivery shall be accepted from, a source

within the State in which the military installation concerned is located.

(b) If a military installation located in the contiguous States is located in more than one State, a source of supply in any State in which the installation is located shall be considered for the purposes of subsection (a)(2) to be a source within the State in which the installation is located.

(c)(1) In the case of covered alcoholic beverage purchases of distilled spirits, to determine whether a nonappropriated fund instrumentality of the Department of Defense provides the most economical method of distribution to package stores, the Secretary of Defense shall consider all components of the distribution costs incurred by the nonappropriated fund instrumentality, such as overhead costs (including costs associated with management, logistics, administration, depreciation, and utilities), the costs of carrying inventory, and handling and distribution costs.

(2) The Secretary shall use the agencies performing audit functions on behalf of the armed forces and the Inspector General of the Department of Defense to make determinations under this subsection.

(d) In this section:

(1) The term "covered alcoholic beverage purchases" means purchases of alcoholic beverages by a nonappropriated fund instrumentality of the Department of Defense with nonappropriated funds.

(2) The term "State" includes the District of Columbia.

-SOURCE-

(Added Pub. L. 99-661, div. A, title III, Sec. 313(a), Nov. 14, 1986, 100 Stat. 3853, Sec. 2488; amended Pub. L. 100-180, div. A, title III, Sec. 312(a), Dec. 4, 1987, 101 Stat. 1073; Pub. L. 104-106, div. A, title III, Sec. 333, Feb. 10, 1996, 110 Stat. 261; Pub. L. 106-398, Sec. 1 [[div. A], title III, Sec. 335], Oct. 30, 2000, 114 Stat. 1654, 1654A-61; renumbered Sec. 2495, Pub. L. 108-375, div. A, title VI, Sec. 651(b)(2), (c)(5), Oct. 28, 2004, 118 Stat. 1971, 1972.)

-MISC1-

AMENDMENTS

2004 - Pub. L. 108-375 renumbered section 2488 of this title as this section.

2000 - Subsec. (c)(2), (3). Pub. L. 106-398 redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "If the use of a private distributor would subject covered alcoholic beverage purchases of distilled spirits to direct or indirect State taxation, a nonappropriated fund instrumentality shall be considered to be the most economical method of distribution regardless of the results of the determination under paragraph (1)."

1996 - Subsec. (a)(1). Pub. L. 104-106, Sec. 333(a), inserted "and distributed in the most economical manner" after "most competitive source".

Subsecs. (c), (d). Pub. L. 104-106, Sec. 333(b), added subsec. (c) and redesignated former subsec. (c) as (d).

1987 - Subsec. (a)(2). Pub. L. 100-180 struck out "purchased for resale on a military installation located in the contiguous States" after "malt beverages and wines".

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title III, Sec. 312(b), Dec. 4, 1987, 101 Stat. 1073, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to purchases of malt beverages and wine after the end of the 60-day period beginning on the date of the enactment of this Act [Dec. 4, 1987]."

PROCUREMENT OF MALT BEVERAGES AND WINE BY NONAPPROPRIATED FUND ACTIVITY

Pub. L. 109-148, div. A, title VIII, Sec. 8080, Dec. 30, 2005, 119 Stat. 2717, which provided that none of the funds appropriated by div. A of Pub. L. 109-148 were to be used for the support of any nonappropriated funds activity of the Department of Defense that procured malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine were procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation was located, was from the Department of Defense Appropriations Act, 2006, and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108-287, title VIII, Sec. 8087, Aug. 5, 2004, 118 Stat. 991.

Pub. L. 108-87, title VIII, Sec. 8088, Sept. 30, 2003, 117 Stat. 1093.

Pub. L. 107-248, title VIII, Sec. 8092, Oct. 23, 2002, 116 Stat. 1558.

Pub. L. 107-117, div. A, title VIII, Sec. 8108, Jan. 10, 2002, 115 Stat. 2271.

Pub. L. 106-259, title VIII, Sec. 8108, Aug. 9, 2000, 114 Stat. 698.

Pub. L. 106-79, title VIII, Sec. 8132, Oct. 25, 1999, 113 Stat. 1266.

Pub. L. 104-61, title VIII, Sec. 8055, Dec. 1, 1995, 109 Stat. 662.

Pub. L. 103-335, title VIII, Sec. 8058A, Sept. 30, 1994, 108 Stat. 2632.

Pub. L. 103-139, title VIII, Sec. 8099A, Nov. 11, 1993, 107 Stat. 1462.

Pub. L. 102-396, title IX, Sec. 9114, Oct. 6, 1992, 106 Stat. 1929.

Pub. L. 102-172, title VIII, Sec. 8111A, Nov. 26, 1991, 105 Stat. 1200.

Pub. L. 101-511, title VIII, Sec. 8068, Nov. 5, 1990, 104 Stat. 1889.

Pub. L. 101-165, title IX, Sec. 9093, Nov. 21, 1989, 103 Stat. 1149.

Pub. L. 100-463, title VIII, Sec. 8122, Oct. 1, 1988, 102 Stat. 2270-40.

Pub. L. 100-202, Sec. 101(b) [title VIII, Sec. 8081], Dec. 22, 1987, 101 Stat. 1329-43, 1329-76.

Pub. L. 99-500, Sec. 101(c) [title IX, Sec. 9090], Oct. 18, 1986, 100 Stat. 1783-82, 1783-116, and Pub. L. 99-591, Sec. 101(c) [title IX, Sec. 9090], Oct. 30, 1986, 100 Stat. 3341-82, 3341-116.

Pub. L. 99-190, Sec. 101(b) [title VIII, Sec. 8099], Dec. 19, 1985, 99 Stat. 1185, 1219.

-CITE-
10 USC Sec. 2495a

01/07/2011

-EXPCITE-
TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES
SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-
Sec. 2495a. Overseas package stores: treatment of United States
wines

-STATUTE-
The Secretary of Defense shall ensure that each nonappropriated-
fund activity engaged principally in selling alcoholic beverage
products in a packaged form (commonly referred to as a "package
store") that is located at a military installation outside the
United States shall give appropriate treatment with respect to
wines produced in the United States to ensure that such wines are
given, in general, an equitable distribution, selection, and price
when compared with wines produced by the host nation.

-SOURCE-
(Added Pub. L. 100-180, div. A, title III, Sec. 311(a)(1), Dec. 4,
1987, 101 Stat. 1073, Sec. 2489; renumbered Sec. 2495a, Pub. L. 108-
375, div. A, title VI, Sec. 651(b)(2), (c)(5), Oct. 28, 2004, 118
Stat. 1971, 1972.)

-MISC1-
AMENDMENTS
2004 - Pub. L. 108-375 renumbered section 2489 of this title as
this section.

REGULATIONS DEADLINE
Pub. L. 100-180, div. A, title III, Sec. 311(b), Dec. 4, 1987,
101 Stat. 1073, directed Secretary of Defense to prescribe
regulations to implement this section not later than 90 days after
Dec. 4, 1987.

-End-

-CITE-
10 USC Sec. 2495b

01/07/2011

-EXPCITE-
TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 147 - COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE,
AND RECREATION ACTIVITIES
SUBCHAPTER III - MORALE, WELFARE, AND RECREATION PROGRAMS AND
NONAPPROPRIATED FUND INSTRUMENTALITIES

-HEAD-

Sec. 2495b. Sale or rental of sexually explicit material prohibited

-STATUTE-

(a) Prohibition of Sale or Rental. - The Secretary of Defense may not permit the sale or rental of sexually explicit material on property under the jurisdiction of the Department of Defense.

(b) Prohibition of Officially Provided Sexually Explicit Material. - A member of the armed forces or a civilian officer or employee of the Department of Defense acting in an official capacity may not provide for sale, remuneration, or rental sexually explicit material to another person.

(c) Resale Activities Review Board. - (1) The Secretary of Defense shall establish a nine-member board to make recommendations to the Secretary regarding whether material sold or rented, or proposed for sale or rental, on property under the jurisdiction of the Department of Defense is barred from sale or rental by subsection (a).

(2)(A) The Secretary of Defense shall appoint six members of the board to broadly represent the interests of the patron base served by the defense commissary system and the exchange system. The Secretary shall appoint one of the members to serve as the chairman of the board. At least one member appointed under this subparagraph shall be a person with experience managing or advocating for military family programs and who is also an eligible patron of the defense commissary system and the exchange system.

(B) The Secretary of each of the military departments shall appoint one member of the board.

(C) A vacancy on the board shall be filled in the same manner as the original appointment.

(3) The Secretary of Defense may detail persons to serve as staff for the board. At a minimum, the Secretary shall ensure that the board is assisted at meetings by military resale and legal advisors.

(4) The recommendations made by the board under paragraph (1) shall be made available to the public. The Secretary of Defense shall publicize the availability of such recommendations by such means as the Secretary considers appropriate.

(5) Members of the board shall be allowed travel expense, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the board.

(d) Regulations. - The Secretary of Defense shall prescribe regulations to implement this section.

(e) Definitions. - In this section:

(1) The term "sexually explicit material" means an audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium, the dominant theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.

(2) The term "property under the jurisdiction of the Department of Defense" includes commissaries, all facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps exchanges, and ships' stores.

-SOURCE-

(Added Pub. L. 104-201, div. A, title III, Sec. 343(a)(1), Sept. 23, 1996, 110 Stat. 2489, Sec. 2489a; renumbered Sec. 2495b, Pub. L. 108-375, div. A, title VI, Sec. 651(b)(2), (c)(5), Oct. 28,

2004, 118 Stat. 1971, 1972; amended Pub. L. 110-417, [div. A], title VI, Sec. 642(a), Oct. 14, 2008, 122 Stat. 4493.)

-MISC1-

AMENDMENTS

2008 - Subsecs. (c) to (e). Pub. L. 110-417 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2004 - Pub. L. 108-375 renumbered section 2489a of this title as this section.

EFFECTIVE DATE

Pub. L. 104-201, div. A, title III, Sec. 343(b), Sept. 23, 1996, 110 Stat. 2490, provided that: "Subsection (a) of section 2489a [now 2495b] of title 10, United States Code, as added by subsection (a) of this section, shall take effect 90 days after the date of the enactment of this Act [Sept. 23, 1996]."

RESALE ACTIVITIES REVIEW BOARD: ESTABLISHMENT AND INITIAL MEETING

Pub. L. 110-417, [div. A], title VI, Sec. 642(b), Oct. 14, 2008, 122 Stat. 4494, provided that:

"(1) Establishment. - The board required by subsection (c) of section 2495b of title 10, United States Code, as added by subsection (a), shall be established, and its initial nine members appointed, not later than 120 days after the date of the enactment of this Act [Oct. 14, 2008].

"(2) Meetings. - The board shall conduct an initial meeting within one year after the date of the appointment of the initial members of the board. At the discretion of the board, the board may consider all materials previously reviewed under such section as available for reconsideration for a minimum of 180 days following the initial meeting of the board."

-End-