

10 USC Sec. 124 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 3 - GENERAL POWERS AND FUNCTIONS

-HEAD-

Sec. 124. Detection and monitoring of aerial and maritime transit of illegal drugs:
Department of Defense to be lead agency

-STATUTE-

(a) Lead Agency. - (1) The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) The responsibility conferred by paragraph (1) shall be carried out in support of the counter-drug activities of Federal, State, local, and foreign law enforcement agencies.

(b) Performance of Detection and Monitoring Function. - (1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of -

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) United States Defined. - In this section, the term "United States" means the land area of the several States and any territory, commonwealth, or possession of the United States.

-SOURCE-

(Added Pub. L. 101-189, div. A, title XII, Sec. 1202(a)(1), Nov. 29, 1989, 103 Stat. 1563; amended Pub. L. 102-190, div. A, title X, Sec. 1088(b), Dec. 5, 1991, 105 Stat. 1485.)

-MISC1-

PRIOR PROVISIONS

A prior section 124, added Pub. L. 87-651, title II, Sec. 201(a), Sept. 7, 1962, 76 Stat. 514; amended Pub. L. 98-525, title XIII, Sec. 1301(a), Oct. 19, 1984, 98 Stat. 2611; Pub. L. 99-145, title XIII, Sec. 1303(a)(1), Nov. 8, 1985, 99 Stat. 738, related to establishment, composition, and functions of combatant commands, prior to repeal by Pub. L. 99-433, Sec. 211(c)(1). See section 161 et seq. of this title. Similar provisions were contained in Pub. L. 100-456, div. A, title XI, Sec. 1102, Sept. 29, 1988, 102 Stat. 2042, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 101-189, Sec. 1202(b).

AMENDMENTS

1991 - Subsec. (a). Pub. L. 102-190 designated existing provisions as par. (1) and added par. (2).

CONDITION ON DEVELOPMENT OF FORWARD OPERATING LOCATIONS FOR UNITED STATES SOUTHERN COMMAND COUNTER-DRUG DETECTION AND MONITORING FLIGHTS

Pub. L. 106-65, div. A, title X, Sec. 1024, Oct. 5, 1999, 113 Stat. 748, provided that:

"(a) Condition. - Except as provided in subsection (b), none of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended for the purpose of improving the physical infrastructure at any proposed forward operating location outside the United States from which the United States Southern Command may conduct counter-drug detection and monitoring flights until a formal agreement regarding the extent and use of, and host nation support for, the forward operating location is executed by both the host nation and the United States.

"(b) Exception. - The limitation in subsection (a) does not apply to an unspecified minor military construction project authorized by section 2805 of title 10, United States Code."

COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN

Pub. L. 102-484, div. A, title X, Sec. 1043, Oct. 23, 1992, 106 Stat. 2492, provided that:

"(a) Requirements of Detection and Monitoring Systems. - The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed -

"(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

"(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

"(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

"(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

"(b) Evaluation of Systems. - The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall -

"(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

"(2) determine the optimal and most cost-effective combination of use of counter-

drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

"(c) Systems Plan. - Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

"(d) Report. - Not later than six months after the date of the enactment of this Act (Oct. 23, 1992), the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

"(e) Limitation on Obligation of Funds. - (1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act (see Tables for classification) may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

"(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for -
"(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

"(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

"(f) Definition. - For purposes of this section, the term 'counter-drug detection and monitoring systems' means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission -

"(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

"(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States."

INTEGRATION OF COMMUNICATIONS NETWORK

Section 1204(a) of Pub. L. 101-189 provided that:

"(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

"(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy."

RESEARCH AND DEVELOPMENT

Section 1205 of Pub. L. 101-189 provided that: "The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve -

"(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

"(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers."

TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

Section 1206 of Pub. L. 101-189 provided that:

"(a) Exercises Required. - The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

"(b) Report. - (1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

"(2) The report shall include -

"(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and

"(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

"(c) Drug-Interdiction Areas Defined. - For purposes of this section, the term 'drug-interdiction areas' includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred."

10 USC Sec. 371

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 18 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT

AGENCIES

-HEAD-

Sec. 371. Use of information collected during military operations

-STATUTE-

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

-SOURCE-

(Added Pub. L. 97-86, title IX, Sec. 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 100-456, div. A, title XI, Sec. 1104(a), Sept. 29, 1988, 102 Stat. 2043.)

-MISC1-

AMENDMENTS

1988 - Pub. L. 100-456 amended section generally, designating existing provisions as subsec. (a), inserting reference to military training, and adding subsecs. (b) and (c).

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-570, title III, Sec. 3051, Oct. 27, 1986, 100 Stat. 3207-74, provided that: "This subtitle (subtitle A (Sec.

3051-3059) of title III of Pub. L. 99-570, enacting section 379 of this title, amending sections 374 and 911 of this title, enacting provisions set out as notes under sections 374, 525, and 9441 of this title, and repealing provisions set out as a note under section 89 of Title 14, Coast Guard) may be cited as the 'Defense Drug Interdiction Assistance Act'."

10 USC Sec. 372 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 18 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

-HEAD-

Sec. 372. Use of military equipment and facilities

-STATUTE-

(a) In General. - The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(b) Emergencies Involving Chemical and Biological Agents. - (1) In addition to equipment and facilities described in subsection (a), the Secretary may provide an item referred to in paragraph (2) to a Federal, State, or local law enforcement or emergency response agency to prepare for or respond to an emergency involving chemical or biological agents if the Secretary determines that the item is not reasonably available from another source. The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.

(2) An item referred to in paragraph (1) is any material or expertise of the Department of Defense appropriate for use in preparing for or responding to an emergency involving chemical or biological agents, including the following:

(A) Training facilities.

(B) Sensors.

(C) Protective clothing.

(D) Antidotes.

-SOURCE-

(Added Pub. L. 97-86, title IX, Sec. 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 100-456, div. A, title XI, Sec. 1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 104-106, div. A, title III, Sec. 378, Feb. 10, 1996, 110 Stat. 284; Pub. L. 104-201, div. A, title XIV, Sec. 1416(b), Sept. 23, 1996, 110 Stat. 2723.)

-MISC1-

AMENDMENTS

1996 - Pub. L. 104-106 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104-201 inserted at end "The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of

the Attorney General for the assistance."

1988 - Pub. L. 100-456 amended section generally, inserting "(including associated supplies or spare parts)" and substituting "Department of Defense" for "Army, Navy, Air Force, or Marine Corps".

TRANSFER OF EXCESS PERSONAL PROPERTY

Pub. L. 101-189, div. A, title XII, Sec. 1208, Nov. 29, 1989, 103 Stat. 1566, as amended by Pub. L. 102-484, div. A, title X, Sec. 1044, Oct. 23, 1992, 106 Stat. 2493, which authorized the Secretary of Defense to transfer excess personal property of the Department of Defense to Federal and State agencies, provided conditions for transfer, and terminated the Secretary's authority on Sept. 30, 1997, was repealed and restated in section 2576a of this title by Pub. L. 104-201, div. A, title X, Sec. 1033(a)(1), (b)(1), Sept. 23, 1996, 110 Stat. 2639, 2640.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 373, 374, 382 of this title.

10 USC Sec. 373 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 18 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

-HEAD-

Sec. 373. Training and advising civilian law enforcement officials

-STATUTE-

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available -

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

-SOURCE-

(Added Pub. L. 97-86, title IX, Sec. 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 99-145, title XIV, Sec. 1423(a), Nov. 8, 1985, 99 Stat. 752; Pub. L. 100-456, div. A, title XI, Sec. 1104(a), Sept. 29, 1988, 102 Stat. 2043.)

-MISC1-

AMENDMENTS

1988 - Pub. L. 100-456 amended section generally, substituting provisions authorizing Secretary of Defense, in accordance with applicable law, to make Defense Department personnel available for training, etc., for former subsecs. (a) to (c) authorizing Secretary of Defense to assign members of Army, Navy, Air Force, and Marine Corps, etc., for training, etc., briefing sessions by Attorney General, and other functions of Attorney General and Administrator of General Services.

1985 - Pub. L. 99-145 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1423(b) of Pub. L. 99-145 provided that: "The amendments made by subsection (a) (amending this section) shall take effect on January 1, 1986."

10 USC Sec. 374 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 18 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

-HEAD-

Sec. 374. Maintenance and operation of equipment

-STATUTE-

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to

-

(A) a criminal violation of a provision of law specified in paragraph (4)(A);

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws;

(C) a foreign or domestic counter-terrorism operation; or

(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C) Aerial reconnaissance.

(D) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F) Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States) -

(i) the transportation of civilian law enforcement personnel along with any other

civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and

(iii) the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term "Federal law enforcement agency" means a Federal agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324-1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of

1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) or any other territory or possession of the United States.

(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(v) Any law, foreign or domestic, prohibiting terrorist activities.

(B) The term "land area of the United States" includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsection (b)(2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

-SOURCE-

(Added Pub. L. 97-86, title IX, Sec. 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 98-525, title XIV, Sec. 1405(9), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99-570, title III, Sec. 3056, Oct. 27, 1986, 100 Stat. 3207-77; Pub. L. 99-661, div. A, title XIII, Sec. 1373(c), Nov. 14, 1986, 100 Stat. 4007; Pub. L. 100-418, title I, Sec. 1214(a)(1), Aug. 23, 1988, 102 Stat. 1155; Pub. L. 100-456, div. A, title XI, Sec. 1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 101-189, div. A, title XII, Sec. 1210, 1216(b), (c), Nov. 29, 1989, 103 Stat. 1566, 1569; Pub. L. 102-484, div. A, title X, Sec. 1042, Oct. 23, 1992, 106 Stat. 2492; Pub. L. 105-277, div. B, title II, Sec. 201, Oct.

21, 1998, 112 Stat. 2681-567; Pub. L. 106-65, div. A, title X, Sec. 1066(a)(4), Oct. 5, 1999, 113 Stat. 770.)

-REFTEXT-

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (b)(4)(A)(i), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (Sec. 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables. The Controlled Substances Import and Export Act, referred to in subsec. (b)(4)(A)(i), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (Sec. 951 et seq.) of chapter 13 of Title 21. For complete classification of the Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables. The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(4)(A)(iii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties. The Maritime Drug Law Enforcement Act, referred to in subsec. (b)(4)(A)(iv), is Pub. L. 96-350, Sept. 15, 1980, 94 Stat. 1159, as amended, which is classified generally to chapter 38 (Sec. 1901 et seq.) of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1901 of Title 46, Appendix, and Tables.

-MISC2-

AMENDMENTS

1999 - Subsec. (b)(1)(C), (D). Pub. L. 106-65, Sec. 1066(a)(4)(A), realigned margins. Subsec. (b)(2)(F)(i). Pub. L. 106-65, Sec. 1066(a)(4)(B), struck out semicolon after "law enforcement personnel;"

1998 - Subsec. (b)(1)(C), (D). Pub. L. 105-277, Sec. 201(1), (2), added subpars. (C) and (D). Subsec. (b)(2)(F)(i). Pub. L. 105-277, Sec. 201(3), inserted "along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;" after "transportation of civilian law enforcement personnel" and struck out "and" at end. Subsec. (b)(2)(F)(ii). Pub. L. 105-277, Sec. 201(4)(A), inserted "and supporting" before "personnel". Subsec. (b)(2)(F)(iii). Pub. L. 105-277, Sec. 201(4)(B), (C), added cl. (iii). Subsec. (b)(4)(A). Pub. L. 105-277, Sec. 201(5), substituted "a Federal agency" for "**an** agency" in introductory provisions. Subsec. (b)(4)(A)(v). Pub. L. 105-277, Sec. 201(6), added cl. (v). 1992 - Subsec. (b)(2)(B) to (F). Pub. L. 102-484, Sec. 1042(1), added subpar. (B) and redesignated former subpars. (B) to (E) as (C) to (F), respectively. Subsec. (b)(3). Pub. L. 102-484, Sec. 1042(2), substituted "paragraph (2)(D)" for "paragraph (2)(C)". 1989 - Subsec. (b)(2)(E). Pub. L. 101-189, Sec. 1210, substituted "and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)" for ", the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States" in introductory provisions. Subsec. (b)(4)(A)(iii). Pub. L. 101-189, Sec. 1216(b), substituted "general note 2 of the Harmonized Tariff Schedule of the United States" for "general headnote 2 of the Tariff Schedules of the

United States". Subsec. (c). Pub. L. 101-189, Sec. 1216(c), substituted "subsection (b)(2)" for "paragraph (2)".

1988 - Pub. L. 100-456 substituted "Maintenance and operation of equipment" for "Assistance by Department of Defense personnel" in section catchline, and amended text generally, revising and restating former subsecs. (a) to (d) as subsecs. (a) to (c).

Subsec. (a)(3). Pub. L. 100-418, which directed substitution of "general note 2 of the Harmonized Tariff Schedule of the United States" for "general headnote 2 of the Tariff Schedules of the United States", could not be executed because of intervening general amendment by Pub. L. 100-456.

1986 - Subsec. (a). Pub. L. 99-570, Sec. 3056(a), inserted provision at end relating to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws.

Subsec. (c). Pub. L. 99-570, Sec. 3056(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "(1) In **an** emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used outside the land area of the United States (or any territory or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law listed in subsection (a) and to transport such law enforcement officials in connection with such operations, if - "(A) equipment operated by or with the assistance of personnel assigned under subsection (a) is not used to interdict or to interrupt the passage of vessels or aircraft; and "(B) the Secretary of Defense and the Attorney General jointly determine that **an** emergency circumstance exists. "(2) For purposes of this subsection, **an** emergency circumstance may be determined to exist only when - "(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and "(B) enforcement of a law listed in subsection (a) would be seriously impaired if the assistance described in this subsection were not provided." Subsec. (d). Pub. L. 99-661 added subsec. (d). 1984 - Subsec. (a)(3). Pub. L. 98-525 struck out "(19 U.S.C. 1202)" after "Tariff Schedules of the United States".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as **an** Effective Date note under section 3001 of Title 19, Customs Duties.

COUNTER-DRUG ACTIVITIES; CONDITIONS ON TRANSFERS OF FUNDS AND DETAILING PERSONNEL; RELATIONSHIP TO OTHER LAW

Pub. L. 103-337, div. A, title X, Sec. 1011(b)-(d), Oct. 5, 1994, 108 Stat. 2836, provided that:

"(b) Condition on Transfer of Funds. - Funds appropriated for the Department of Defense may not be transferred to a National Drug Control Program agency account except to the extent provided in a law that specifically states -

"(1) the amount authorized to be transferred; "(2) the account from which such amount is authorized to be transferred; and "(3) the account to which such amount is authorized to be transferred. "(c) Condition on Detailing Personnel. - Personnel of

the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States. "(d) Relationship to Other Law. - A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law - "(1) specifically refers to this section; and "(2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be." Pub. L. 107-117, div. A, title VIII, Sec. 8063(a), Jan. 10, 2002, 115 Stat. 2261, provided that: "None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in **an** appropriations law." Similar provisions were contained in the following prior appropriation acts: Pub. L. 106-259, title VIII, Sec. 8062(a), Aug. 9, 2000, 114 Stat. 688. Pub. L. 106-79, title VIII, Sec. 8065(a), Oct. 25, 1999, 113 Stat. 1244. Pub. L. 105-262, title VIII, Sec. 8065(a), Oct. 17, 1998, 112 Stat. 2311. Pub. L. 105-56, title VIII, Sec. 8071(a), Oct. 8, 1997, 111 Stat. 1235. Pub. L. 104-208, div. A, title I, Sec. 101(b) (title VIII, Sec. 8080(a)), Sept. 30, 1996, 110 Stat. 3009-71, 3009-104.

Pub. L. 104-61, title VIII, Sec. 8096(a), Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103-335, title VIII, Sec. 8154(a), Sept. 30, 1994, 108 Stat. 2658.

ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

Pub. L. 101-510, div. A, title X, Sec. 1004, Nov. 5, 1990, 104 Stat. 1629, as amended by Pub. L. 102-190, div. A, title X, Sec. 1088(a), Dec. 5, 1991, 105 Stat. 1484; Pub. L. 102-484, div. A, title X, Sec. 1041(a)-(d)(1), Oct. 23, 1992, 106 Stat. 2491; Pub. L. 103-160, div. A, title XI, Sec. 1121(a), (b), Nov. 30, 1993, 107 Stat. 1753; Pub. L. 103-337, div. A, title X, Sec. 1011(a), Oct. 5, 1994, 108 Stat. 2836; Pub. L. 105-261, div. A, title X, Sec. 1021, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 107-107, div. A, title X, Sec. 1021, Dec. 28, 2001, 115 Stat. 1212, provided that:

"(a) Support to Other Agencies. - During fiscal years 2002 through 2006, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested - "(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

"(2) by the appropriate official of a State or local government, in the case of support for State or local law

enforcement agencies; or "(3) by **an** appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies. "(b) Types of Support. - The purposes for which the Secretary of Defense may provide support under subsection (a) are the following:

"(1) The maintenance and repair of equipment that has been made available to any

department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of -

"(A) preserving the potential future utility of such equipment for the Department of Defense; and

"(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

"(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of -

"(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

"(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

"(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

"(4) The establishment (including *an* unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities of the Department of Defense or any Federal, State, or local law enforcement agency within or outside the United States or counter-drug activities of a foreign law enforcement agency outside the United States.

"(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local

governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

"(6) The detection, monitoring, and communication of the movement of -

"(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

"(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

"(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

"(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

"(9) The provision of linguist and intelligence analysis services.

"(10) Aerial and ground reconnaissance.

"(c) Limitation on Counter-Drug Requirements. - The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

"(d) Contract Authority. - In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that

subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

"(e) Limited Waiver of Prohibition. - Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

"(f) Conduct of Training or Operation To Aid Civilian Agencies. - In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564 (10 U.S.C. 124 note))) for the purpose of aiding civilian law enforcement agencies.

"(g) Relationship to Other Laws. - (1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

"(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

"(h) Congressional Notification of Facilities Projects. - (1) When a decision is made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees (Committees on Armed Services and Appropriations of Senate and House of Representatives) written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress. "(2) Paragraph (1) applies to **an** unspecified minor military construction project that - "(A) is intended for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4); and "(B) has **an** estimated cost of more than \$500,000."

COMMUNICATIONS NETWORK

Section 1103 of Pub. L. 100-456 related to integration of United States assets dedicated to interdiction of illegal drugs into **an** effective communications network, prior to repeal by Pub. L. 101-189, div. A, title XII, Sec. 1204(b), Nov. 29, 1989, 103 Stat. 1564. See section 1204(a) of Pub. L. 101-189 set out as a note under section 124 of this title.

ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR NATIONAL GUARD

Section 1105 of Pub. L. 100-456 related to funding and training of National Guard for purpose of drug interdiction and enforcement operations and for operation and

maintenance of equipment and facilities for such purpose, prior to repeal by Pub. L. 101-189, div. A, title XII, Sec. 1207(b), Nov. 29, 1989, 103 Stat. 1566. See section 112 of Title 32, National Guard.

ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE

Section 3057 of Pub. L. 99-570 provided that:

"(a) General Requirement. - (1) Within 90 days after the date of the enactment of this Act (Oct. 27, 1986), the Secretary of Defense shall submit to the Congress the following:

"(A) A detailed list of all forms of assistance that shall be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service. "(B) A detailed plan for promptly lending equipment and rendering drug interdiction-related assistance included on such list.

"(2) The list required by paragraph (1)(A) shall include, but not be limited to, a description of the following matters:

"(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities. "(B) Communications equipment, including secure communications. "(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies. "(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States. "(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction. "(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard. "(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard. "(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

"(b) Committee Approval and Final Implementation. - Within 30 days after the date on which the Congress receives the list and plan submitted under such subsection, the Committees on Armed Services of the Senate and the House of Representatives shall submit their approval or disapproval of such list and plan to the Secretary of Defense. Upon receipt of such approval or disapproval, the Secretary shall immediately convene a conference of the heads of the Federal Government agencies with jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies. Not later than 60

days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

"(c) Equipment Subject to Section 3052(c). - Equipment identified in this section is subject to the provisions of section 3052(c) (100 Stat. 3207-75).

"(d) Applicability. - Subsections (a) and (b) shall not apply to any assets, equipment, items of support, or other assistance provided or authorized in any other provision of this title.

"(e) Review by General Accounting Office. - The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which the conference is convened under subsection (b), the Comptroller General shall transmit to the Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b)."

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 379 of this title.

10 USC Sec. 379 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 18 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

-HEAD-

Sec. 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

-STATUTE-

(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions) -

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

(d) In this section, the term "drug-interdiction area" means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

-SOURCE-

(Added Pub. L. 99-570, title III, Sec. 3053(b)(1), Oct. 27, 1986, 100 Stat. 3207-75; amended Pub. L. 100-456, div. A, title XI, Sec. 1104(a), Sept. 29, 1988, 102 Stat. 2045.)

-MISC1-

AMENDMENTS

1988 - Pub. L. 100-456 amended section generally, substituting "every appropriate surface naval vessel" for "appropriate surface naval vessels" in subsec. (a), substituting "section 374(b)(4)(A)" for "section 374(a)(1)" in subsec. (c), and inserting "(as defined in section 374(b)(4)(B) of this title)" in subsec. (d).

~~-SECRET-~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14 section 637.

10 USC Sec. 380 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 18 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

-HEAD-

Sec. 380. Enhancement of cooperation with civilian law enforcement officials

-STATUTE-

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct **an** annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) **An** explanation of the procedures for civilian law enforcement officials -

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall -

(1) establish or designate **an** appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

-SOURCE-

(Added Pub. L. 100-180, div. A, title XII, Sec. 1243(a), Dec. 4, 1987, 101 Stat. 1163; amended Pub. L. 100-456, div. A, title XI, Sec. 1104(a), Sept. 29, 1988, 102 Stat. 2046.)

-MISC1-

AMENDMENTS

1988 - Pub. L. 100-456 amended section generally, substituting provisions relating to annual briefing of law enforcement personnel of each State by Secretary of Defense and Attorney General and establishment of offices and telephone communication with those offices regarding surplus military equipment for provisions requiring the Secretary to report to Congress on the availability of assistance, etc., to civilian law enforcement and drug interdiction agencies and to

convene a conference and requiring the Comptroller General to monitor and report on the Secretary's compliance with those requirements.

10 USC Sec. 381 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 18 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

-HEAD-

Sec. 381. Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense

-STATUTE-

(a) Procedures. - (1) The Secretary of Defense shall establish procedures in accordance with this subsection under which States and units of local government may purchase law enforcement equipment suitable for counter-drug activities through the Department of Defense. The procedures shall require the following:

(A) Each State desiring to participate in a procurement of equipment suitable for counter-drug activities through the

Department of Defense shall submit to the Department, in such form and manner and at such times as the Secretary prescribes, the following:

(i) A request for law enforcement equipment.

(ii) Advance payment for such equipment, in *an* amount determined by the Secretary based on estimated or actual costs of the equipment and administrative costs incurred by the Department.

(B) A State may include in a request submitted under subparagraph (A) only the type of equipment listed in the catalog produced under subsection (c).

(C) A request for law enforcement equipment shall consist of *an* enumeration of the law enforcement equipment that is desired by the State and units of local government within the State. The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for law enforcement equipment from units of local government within the State.

(D) A State requesting law enforcement equipment shall be responsible for arranging and paying for shipment of the equipment to the State and localities within the State.

(2) In establishing the procedures, the Secretary of Defense shall coordinate with the General Services Administration and other Federal agencies for purposes of avoiding duplication of effort.

(b) Reimbursement of Administrative Costs. - In the case of any purchase made by a State or unit of local government under the procedures established under subsection (a), the Secretary of Defense shall require the State or unit of local government to reimburse the Department of Defense for the administrative costs to the Department of such purchase.

(c) GSA Catalog. - The Administrator of General Services, in coordination with the

Secretary of Defense, shall produce and maintain a catalog of law enforcement equipment suitable for counter-drug activities for purchase by States and units of local government under the procedures established by the Secretary under this section.

(d) Definitions. - In this section:

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(2) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; *an* Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

(3) The term "law enforcement equipment suitable for counter-drug activities" has the meaning given such term in regulations prescribed by the Secretary of Defense. In prescribing the meaning of the term, the Secretary may not include any equipment that the Department of Defense does not procure for its own purposes.

-SOURCE-

(Added Pub. L. 103-160, div. A, title XI, Sec. 1122(a)(1), Nov. 30, 1993, 107 Stat. 1754.)

-TRANS-

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

-MISC5-

DEADLINE FOR ESTABLISHING PROCEDURES

Section 1122(b) of Pub. L. 103-160 provided that: "The Secretary of Defense shall establish procedures under section 381(a) of title 10, United States Code, as added by subsection (a), not later than six months after the date of the enactment of this Act (Nov. 30, 1993)."

10 USC Sec. 2576 01/22/02

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 153 - EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE,
SURPLUS, OR UNCLAIMED PROPERTY

-HEAD-

Sec. 2576. Surplus military equipment: sale to State and local law enforcement and firefighting agencies

-STATUTE-

(a) The Secretary of Defense, under regulations prescribed by him, may sell to State and local law enforcement and firefighting agencies, at fair market value, pistols, revolvers, shotguns, rifles of a caliber not exceeding .30, ammunition for such firearms, gas masks, and protective body armor which (1) are suitable for use by such agencies in carrying out law enforcement and firefighting activities, and (2) have been determined to be surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(b) Such surplus military equipment shall not be sold under the provisions of this section to a State or local law enforcement or firefighting agency unless request therefor is made by such agency, in such form and manner as the Secretary of Defense shall prescribe, and such request, with respect to the type and amount of equipment so requested, is certified as being necessary and suitable for the operation of such agency by the Governor (or such State official as he may designate) of the State in which such agency is located. Equipment sold to a State or local law enforcement or firefighting agency under this section shall not exceed, in quantity, the amount requested and certified for such agency and shall be for the exclusive use of such agency. Such equipment may not be sold, or otherwise transferred, by such agency to any individual or public or private organization or agency.

-SOURCE-

(Added Pub. L. 90-500, title IV, Sec. 403(a) Sept. 20, 1968, 82 Stat. 851; amended Pub. L. 96-513, title V, Sec. 511(85), Dec. 12, 1980, 94 Stat. 2927.)

-REFTEXT-

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The surplus property provisions of that Act are classified to chapter 10 (Sec. 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

-MISC2-

AMENDMENTS

1980 - Subsec. (a). Pub. L. 96-513 substituted "under" for "pursuant to", and "(40 U.S.C. 471 et seq.)" for "(68 Stat.

377), as amended".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS

Pub. L. 106-181, title VII, Sec. 740, Apr. 5, 2000, 114 Stat. 173, provided that:

"(a) Authority. -

"(1) Sale of aircraft and aircraft parts. - Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may sell, during the period beginning on the date of the enactment of this Act (Apr. 5, 2000) and ending September 30, 2002, aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

"(2) Aircraft and aircraft parts that may be sold. - The aircraft and aircraft parts that may be sold under paragraph (1)

are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary of Defense to be -

"(A) excess to the needs of the Department; and

"(B) acceptable for commercial sale.

"(b) Conditions of Sale. - Aircraft and aircraft parts sold under subsection (a) -

"(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan; and

"(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

"(c) Certification of Persons and Entities. - The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Transportation certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable

of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

"(d) Regulations. -

"(1) Issuance. - As soon as practicable after the date of the enactment of this Act (Apr. 5, 2000), the Secretary of Defense, in consultation with the Secretary of Transportation and the Administrator of General Services, shall prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

"(2) Contents. - The regulations shall -

"(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value, as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

"(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

"(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other operators in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

"(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

"(e) Additional Terms and Conditions. - The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

"(f) Report. - Not later than March 31, 2002, the Secretary of Defense shall transmit to the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on National Security and Transportation and Infrastructure of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth -

"(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

"(2) the persons or entities to which the aircraft were sold; and

"(3) an accounting of the current use of the aircraft sold.

"(g) Statutory Construction. -

"(1) Authority of administrator. - Nothing in this section may be construed as affecting the authority of the Administrator under any other provision of law.

"(2) Certification requirements. - Nothing in this section may be construed to waive, with respect to an aircraft sold under the authority of this section, any requirement to obtain a certificate from the Administrator to operate the aircraft for any purpose (other than oil spill spotting, observation, and dispersant delivery) for which such a certificate is required.

"(h) Proceeds From Sale. - The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts."

SALE OF AIRCRAFT FOR WILDFIRE SUPPRESSION PURPOSES

Pub. L. 104-307, Oct. 14, 1996, 110 Stat. 3811, as amended by Pub. L. 106-65, div. A, title X, Sec. 1067(23), Oct. 5, 1999, 113 Stat. 775; Pub. L. 106-398, Sec. 1 ((div. A), title III, Sec. 388), Oct. 30, 2000, 114 Stat. 1654, 1654A-89, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Wildfire Suppression Aircraft Transfer Act of 1996'.

"SEC. 2. AUTHORITY TO SELL AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.

"(a) Authority. - (1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning on October 1, 1996, and ending on September 30, 2005, sell the aircraft and aircraft parts referred to in paragraph (2) to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire.

"(2) Paragraph (1) applies to aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be -

"(A) excess to the needs of the Department; and

"(B) acceptable for commercial sale.

"(b) Conditions of Sale. - Aircraft and aircraft parts sold under subsection (a) -

"(1) may be used only for the provision of airtanker services for wildfire suppression purposes; and

"(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes jointly approved by the Secretary of Defense and the Secretary of Agriculture in writing in advance.

"(c) Certification of Persons and Entities. - The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Agriculture certifies to the Secretary of Defense, in writing, before the sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant by air.

"(d) Regulations. - (1) As soon as practicable after October 14, 1996, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. The regulations prescribed under this paragraph shall be effective until the end of the period specified in subsection (a)(1).

"(2) The regulations shall -

"(A) ensure that the sale of the aircraft and aircraft parts is made at fair market value (as determined by the Secretary of Defense) and, to the extent practicable, on a competitive basis;

"(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

"(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end users in accordance with the

conditions set forth in subsections (b) and (e); and

"(D) ensure, to the maximum extent practicable, that the Secretary consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

"(e) Additional Terms and Conditions. - The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of the regulations prescribed under subsection (d).

"(f) Report. - Not later than March 31, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth -

"(1) the number and type of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

"(2) the persons or entities to which the aircraft were sold; and

"(3) an accounting of the current use of the aircraft sold.

"(g) Construction. - Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law."