§ 2108. Veteran; disabled veteran; preference eligible

For the purpose of this title—

(1) “veteran” means an individual who—

(A) served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955;

(B) served on active duty as defined by section 101 (21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before October 15, 1976, not including service under section 12103 (d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

(C) served on active duty as defined by section 101 (21) of title 38 in the armed forces during the period beginning on August 2, 1990, and ending on January 2, 1992; or

(D) served on active duty as defined by section 101 (21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom;

and, except as provided under section 2108a, who has been discharged or released from active duty in the armed forces under honorable conditions;

(2) “disabled veteran” means an individual who has served on active duty in the armed forces, (except as provided under section 2108a) has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Department of Veterans Affairs or a military department;

(3) “preference eligible” means, except as provided in paragraph (4) of this section or section 2108a (c)—

(A) a veteran as defined by paragraph (1)(A) of this section;

(B) a veteran as defined by paragraph (1)(B), (C), or (D) of this section;

(C) a disabled veteran;

(D) the unmarried widow or widower of a veteran as defined by paragraph (1)(A) of this section;

(E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;

(F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed;

(G) the mother of a service-connected permanently and totally disabled veteran, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or
(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and

(H) a veteran who was discharged or released from a period of active duty by reason of a sole survivorship discharge (as that term is defined in section 1174 (i) of title 10);

but does not include applicants for, or members of, the Senior Executive Service, the Defense Intelligence Senior Executive Service, the Senior Cryptologic Executive Service, or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(4) except for the purposes of chapters 43 and 75 of this title, “preference eligible” does not include a retired member of the armed forces unless—

(A) the individual is a disabled veteran; or

(B) the individual retired below the rank of major or its equivalent; and

(5) “retired member of the armed forces” means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.


Historical and Revision Notes

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In paragraph (2), the words “a military department” are substituted for “the War Department or Navy Department” (appearing in section 2 of the Act of June 27, 1944) because of the definition of “military department” in section 102. The Department of War was designated the Department of the Army by the Act of July 26, 1947, ch. 343, § 205, 61 Stat. 501. “Department of the Air Force” is included on authority of the Act of July 26, 1947, ch. 343, § 207 (a), (f), 61 Stat. 502.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.
Section of title 5 | Source (U.S. Code) | Source (Statutes at Large)
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**1967 Act**

**Amendments**


Par. (2). Pub. L. 112–56, § 235(a)(2)(A)(ii), inserted “(except as provided under section 2108a)” before “has been separated”.

Par. (3). Pub. L. 112–56, § 235(a)(2)(A)(iii), in introductory provisions, inserted “or section 2108a (c)” after “paragraph (4) of this section”.


2006—Par. (1). Pub. L. 109–163, § 1112(a), in concluding provisions, substituted “discharged or released from active duty in” for “separated from”.


Par. (3)(B). Pub. L. 109–163, § 1111(b), substituted “paragraph (1)(B), (C), or (D)” for “paragraph (1)(B) or (C)”.


Par. (3)(B). Pub. L. 105–85, § 1102(a)(2), inserted “or (C)” after “paragraph (1)(B)”.


1979—Par. (3). Pub. L. 96–54, § 2(a)(8), inserted provision excepting applicants for, or members of, Senior Executive Service.

Par. (5). Pub. L. 96–54, § 2(a)(9)(A), struck out provision excepting applicants for, or members of, Senior Executive Service.


Par. (3). Pub. L. 95–454, § 307(a)(2), (3), inserted “; except as provided in paragraph (4) of this section” after “means”, and substituted a semicolon for the period at end.

Pars. (4), (5). Pub. L. 95–454, § 307(a)(4), added pars. (4) and (5) relating to retired members of the armed forces.

Par. (5). Pub. L. 95–454, § 401(d), inserted “; but does not include applicants for, or members of, the Senior Executive Service” before the period at end.


Par. (3)(E). Pub. L. 92–187 inserted “or husband” after “the wife”.

1968—Par. (3)(D). Pub. L. 90–623 inserted “as defined by paragraph (1)(A) of this section” after “veteran”.

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NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see http://www.law.cornell.edu/uscode/uscodeprint.html).
Effective Date of 2008 Amendment
Pub. L. 110–317, § 10, Aug. 29, 2008, 122 Stat. 3530, provided that:

“(a) Retroactive Effective Date.—Except as provided in subsection (b) and section 9 [amending section 685 of Title 26, Internal Revenue Code, and enacting provisions set out as a note under section 685 of Title 26], this Act [amending this section, section 8521 of this title, sections 1145, 1146, and 1174 of Title 10, Armed Forces, section 685 of Title 26, section 303a of Title 37, Pay and Allowances of the Uniformed Services, and sections 3011, 3012, 3702, and 4211 of Title 38, Veterans’ Benefits, and enacting provisions set out as notes under section 101 of Title 10 and section 685 of Title 26] and the amendments made by this Act shall apply with respect to any sole survivorship discharge granted after September 11, 2001.

“(b) Date of Enactment Effective Date for Certain Amendments.—The amendments made by sections 4, 7, and 8 [amending this section and section 8521 of this title and section 1145 of Title 10] shall apply with respect to any sole survivorship discharge granted after the date of the enactment of this Act [Aug. 29, 2008].

“(c) Sole Survivorship Discharge Defined.—In this section, the term 'sole survivorship discharge' means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

“(1) the father or mother or one or more siblings—

“(A) served in the Armed Forces; and

“(B) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

“(2) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.”

Effective Date of 1981 Amendment
Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

Effective Date of 1980 Amendment

Effective Date of 1979 Amendment
Amendment by section 2(a)(8) of Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

Section 2(a)(9)(B) of Pub. L. 96–54 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect October 1, 1980”.

Effective Date of 1978 Amendment
Section 307(a) of Pub. L. 95–454 provided that the amendment made by that section is effective Oct. 1, 1980.


Effective Date of 1968 Amendment
Amendment by Pub. L. 90–623 effective Sept. 11, 1967, for all purposes, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of this title.

Savings Provision
Pub. L. 109–163, div. A, title XI, § 1112(b), Jan. 6, 2006, 119 Stat. 3451, provided that: “Nothing in the amendment made by subsection (a) [amending this section] may be construed to affect a determination made before the date of enactment of this Act [Jan. 6, 2006] that an individual is a preference eligible (as defined in section 2108 (3) of title 5, United States Code).”
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.