§ 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran’s own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was a result of the person’s own willful misconduct or abuse of alcohol or drugs. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring the person to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed

1. was avoiding duty by deserting the service or by absenting himself or herself without leave materially interfering with the performance of military duties;
2. was confined under sentence of court-martial involving an unremitting dishonorable discharge; or
3. was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

(c) For the purposes of any provision relating to the extension of a delimiting period under any education-benefit or rehabilitation program administered by the Secretary, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct.


Amendments

1991—Subsec. (c). Pub. L. 102–83 substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

1990—Subsec. (a). Pub. L. 101–508 substituted “a result of the person’s own willful misconduct or abuse of alcohol or drugs” for “the result of the person’s own willful misconduct”.


1986—Subsec. (a). Pub. L. 99–576, § 701(4)(A), substituted “result of the person’s” for “result of his” and “requiring the person” for “requiring him”.

Subsec. (b)(1). Pub. L. 99–576, § 701(4)(B), substituted “service or by absenting himself or herself” for “service, or by absenting himself”.

Effective Date of 1990 Amendment

Section 8052(b) of Pub. L. 101–508 provided that: “The amendments made by subsection (a) [amending this section and sections 310 and 331 [now 1110 and 1131] of this title] shall take effect with respect to claims filed after October 31, 1990.”