

COVERAGE OF ROTC MEMBERS UNDER SERVICEMEN'S INDEMNITY ACT OF 1951

JULY 27 (legislative day, JULY 2), 1954.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 5314]

The Committee on Finance, to whom was referred the bill (H. R. 5314) to extend the coverage of the Servicemen's Indemnity Act to members of the Reserve Officers' Training Corps when ordered to active training duty for periods in excess of 14 days, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The purpose of the proposed legislation is to extend coverage under the Servicemen's Indemnity Act of 1951, effective April 25, 1951, to members of the Army Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, and the Air Force Reserve Officers' Training Corps, when called or ordered to active duty for 14 days or more. Thus, in the event of death of a member of these training corps while on such active training duty, his beneficiary would be entitled to \$10,000 free indemnity insurance.

In addition to providing indemnity coverage, the bill extends the right to apply for national service life insurance to members of these training corps within 120 days after separation from active training duty of more than 30 days.

The report of the Veterans' Administration on this measure is shown below:

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JULY 16, 1953.

Hon. EUGENE D. MILLIKIN,
*Chairman, Committee on Finance,
United States Senate, Washington 25, D. C.*

DEAR SENATOR MILLIKIN: Further reference is made to your request for a report by the Veterans' Administration on H. R. 5314, 83d Congress, an act to extend the coverage of the Servicemen's Indemnity Act to members of the Reserve Officers' Training Corps when ordered to active training duty for periods in excess of 14 days.

The purpose of the bill is to amend section 2 of the Servicemen's Indemnity Act of 1951, effective April 25, 1951, to provide a maximum of \$10,000 free indemnity for the death of members of the Army Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, and the Air Force Reserve Officers' Training Corps, when called or ordered to active training duty for 14 days or more while on such active training duty. The bill would also extend the right to apply for national service life insurance to such persons who are separated from active training duty of more than 30 days or who, upon separation, have a service-connected disability.

The Servicemen's Indemnity Act of 1951 (pt. I, Public Law 23, 82d Cong., approved April 25, 1951) provides for the payment of a free indemnity in the maximum amount of \$10,000, reduced by the amount of any national service life insurance or United States Government life insurance in force at the time of death, for death in active service on or after June 27, 1950, or within 120 days after release from such service if called to active duty for a period exceeding 30 days, and under other specified conditions. The act applies chiefly to persons "in the active service of the Army, Navy, Air Force, Marine Corps, Coast Guard, or the Reserve components thereof, including the National Guard when called or ordered to active duty or active training duty for fourteen days or more." In addition, coverage is extended to cadets and midshipmen at the service academies; officers of the Public Health Service and Coast and Geodetic Survey under certain limited conditions; reservists while engaged in aerial flights for any period, with or without pay; and persons under orders while en route for entry into active service or induction.

The Insurance Act of 1951 (pt. II, Public Law 23, supra), among other things added sections 619, 620, and 621 to the National Service Life Insurance Act of 1940, as amended. Section 619 provides that, with certain exceptions, no United States Government life insurance or national service life insurance shall be issued on or after April 25, 1951. Section 620 provides for the issue of national service life insurance to persons discharged from the active service on or after April 25, 1951, who have a service-connected disability and who apply for insurance within 1 year from the date service connection is determined by the Veterans' Administration. All persons granted indemnity protection are deemed to be in the active service for this purpose. Section 621 provides for the issue of national service life insurance on the term plan to persons entitled to indemnity protection under section 2 of the Servicemen's Indemnity Act of 1951 who are ordered into active service for a period exceeding 30 days and apply for insurance within 120 days after separation from such service.

It is understood that the various branches of the Armed Forces consider students who are members of the Army Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps (contract students), and the Air Force Reserve Officers' Training Corps as civilians. Such students are under no present obligation to render general military service and are not subject to the Uniform Code of Military Justice. Regular NROTC students, however, are appointed as midshipment in the Naval Reserve Corps, and as such are members of a Reserve component of the Navy within the meaning of section 2 of the Servicemen's Indemnity Act of 1951. Therefore, in addition to the indemnity coverage, such persons when ordered to active training duty for a period in excess of 30 days are also eligible on application made within 120 days after separation from service for national service life insurance. (See Administrator's Division, Veterans' Administration, No. 913, September 2, 1952, copy enclosed.)

Under the Servicemen's Indemnity Act of 1951 any person "called to extended active service for a period exceeding thirty days" continues to be protected for a period of 120 days after separation or release from such service. The words "while on such active training duty," line 2, page 2 of the bill, are apparently intended to limit the indemnity coverage extended by the bill to the period of active training duty, even though the individual may have been ordered to active training duty for a period in excess of 30 days.

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As indicated, the groups to whom the bill would extend veterans' benefits are composed of civilians who have not served on active duty in the Armed Forces or the Reserve components thereof. Such persons take Reserve officers' training in connection with their courses of study in schools and colleges, and the training corps are not deemed to be Reserve components of the Armed Forces under the Armed Forces Reserve Act of 1952 (Public Law 476, 82d Cong., approved July 9, 1952). It has been the general policy of the Congress to limit veterans' benefits to persons who served in the active military or naval service and to dependents of such persons. The extension of such benefits to civilian classes such as the ROTC groups would be a distinct departure from that established policy and, of course, is a matter primarily for determination by the Congress.

The Department of Defense estimates that in 1953, 21,000 men will receive 6 weeks' active training duty under the Army Reserve Officers' Training Corps program; 17,000 men will be trained for 4 weeks each under the Air Force program, and 1,300 men will be trained for 6 weeks each under the Contract Naval Reserve Officers' Training Corps program. If it be assumed that such training strength figures will be approximately the same each year, and assuming a mortality rate of 1.5 per thousand per training year, it appears that there would be about 6 indemnity claims per year under the bill. On the same basis it is estimated that about 13 prior claims for the interval from April 25, 1951, to date, would be involved. The nominal value of each claim is \$10,000; however, the actual cost to the Government is \$92.90 per month for 10 years, or \$11,148. Therefore, subject to the above assumptions, it is estimated that the annual cost of the servicemen's indemnity under the bill, if enacted, would be about \$40,000 for the fiscal year 1954, increasing to about \$67,000 in the fiscal year 1962, and stabilizing at the latter figure. (For the purpose of this estimate the assumed mortality rate is based on national service life-insurance mortality experience in the 20-30 years of age group, excluding deaths traceable to the extra hazards of military service.)

As the Veterans' Administration has no data upon which to base an estimate of the number of Reserve Officers' Training Corps students who would apply for insurance under sections 620 and 621 of the National Service Life Insurance Act of 1940, as amended, after termination of their active training duty, no estimate can be made of the extent to which the bill, if enacted, would increase the cost of the insurance program.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

H. V. STIRLING, *Acting Administrator.*

ADMINISTRATOR'S DECISION, VETERANS' ADMINISTRATION, No. 913

SEPTEMBER 2, 1952.

Subject: Eligibility of members of the Naval Reserve Officers Training Corps to insurance under section 621, National Service Life Insurance Act of 1940, as amended.

Question presented: Are members of the Naval Reserve Officers Training Corps who are ordered to active training duty for a period in excess of 30 days eligible to apply for insurance under the provisions of section 621, National Service Life Insurance Act of 1940, as amended, within 120 days after release from active training duty?

Comment: Preliminarily, it should be stated that members of the Naval Reserve Officers Training Corps are comprised of two distinct types of officer candidates, "(a) Regular NROTC students," and "(b) Contract NROTC students." These types were established by regulations issued pursuant to the provisions of section 2, Public Law 729, 79th Congress, as amended by section 1 (a), Public Law 675, 80th Congress (34 U. S. C. 1020a).

Article 301 of the Naval Reserve Officers Training Corps Regulations, 1952, reads:

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"Types of NROTC Students.—Officer candidates in the NROTC are of two types:

"(a) Regular NROTC students are appointed Midshipmen, USNR, and will be granted the compensation and benefits specified in sections VII and VIII of these Regulations. In accordance with their contract (Art. 1002 (a)), such students are obliged to make all required summer practice cruises

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(Art. 508), and to serve at least 15 months on active duty after commissioning, as Ensigns, U. S. Navy, or Second Lieutenants, U. S. Marine Corps, unless sooner released by the Secretary of the Navy. Should such officers elect to terminate their regular status, they will be commissioned in the Naval or Marine Corps Reserve, and, at the discretion of the Secretary of the Navy, may be required to continue on active duty under the terms of their contract until they have completed 2 years commissioned service. (Currently extended to 3 years as a result of the enactment of the 1951 amendments to the Universal Military Training and Service Act.) They may apply for retention as career officers in the Regular Navy or Marine Corps in accordance with Article 313.

"(b) Contract NROTC students have the status of civilians who have entered into a mutual contract with the Navy (Art. 1002 (b)). They are not entitled to the compensation or benefits paid Regular NROTC students except that they are entitled to the uniform issue specified in Article 803, payment of commutation of subsistence during their final 2 years of NROTC training (Art. 703), and the practice cruise compensations specified in Article 702. Contract NROTC students agree to accept a commission in the Naval Reserve or the Marine Corps Reserve but may, if they so desire and if their services are required, be commissioned as Second Lieutenants, USMC, and serve for a minimum of 2 years on active duty. Contract NROTC graduates given USMC commissions are appointed under the same law (Public Law 729, 79th Cong., as amended) which authorizes USMC appointments for Regular NROTC graduates, and if they desire to retain their regular commissions, they must apply for such retention in the same manner as Regular officers appointed from the Regular NROTC program. Contract NROTC students are required to make one summer practice cruise. Contract students desiring to transfer to the status of Regular students must qualify through the annual competitive examination and selection procedure.

"(c) Normally both types of students shall be referred to as 'NROTC Students.' However, the term 'Midshipmen' may be also used locally in referring to all NROTC students as a group and 'Midshipman' may be used as a generic term in referring to a particular student as a member of the entire group. In all official correspondence and records a regular NROTC student shall be referred to as 'Midshipman, USNR' or 'Regular NROTC student' and a contract student shall be referred to as 'Contract NROTC student'."

It is significant to note that since Regular students were required to perform active training duty in excess of 30 days, they were eligible to apply for national service life insurance under the National Service Life Insurance Act of 1940, as amended (38 U. S. C. 801 et seq.), prior to April 25, 1951 (the date of the approval of Public Law 23, 82d Cong.), by reason of the definition of active service in section 601 (c) of the National Service Life Insurance Act of 1940, as amended (38 U. S. C. 801 (c)). Consequently, provision was made in article 705 of the Naval Reserve Officers Training Corps Regulations, 1952, for the registration of an allotment to pay premiums on national service life insurance if a policy had been procured during the active service in excess of 30 years.

It is probable that members of the Reserve Officers Training Corps of the various services were not specifically included among those entitled to indemnity protection because some members were civilians (contract students) as exemplified in the two types of officer candidates in the Naval Reserve Officers Training Corps. However, all the Reserve components of the Regular establishments are entitled to indemnity protection under the conditions prescribed in section 2 of the Servicemen's Indemnity Act of 1951 (pt. I, Public Law 23, 82d Cong.) (38 U. S. C. 851), the pertinent part of which reads:

"Except as hereinafter provided, on and after June 27, 1950, any person in the active service of the Army, Navy, Air Force, Marine Corps, Coast Guard, or the Reserve components thereof, including the National Guard when called or ordered to active duty or active training duty for fourteen days or more; cadets and midshipmen at the United States Military, Naval, and Coast Guard Academies; commissioned officers of the Public Health Service while entitled to full military benefits as provided in section 212 (a) of the Act of July 1, 1944 (58 Stat. 689), as amended (42 U. S. C. 213); and commissioned officers of the Coast and Geodetic Survey while assigned to duty during a period of war or an emergency as proclaimed by the President or the Congress on projects for the Army, Navy, or Air Force in areas outside the continental United States or in Alaska, or in coastal areas of the United States determined by the Department of Defense to be of immediate military hazard, shall be automatically insured by the United States, without

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cost to such person, against death in such service in the principal amount of \$10,000: *Provided*, That any person called to extended active service for a period exceeding thirty days shall continue to be so protected for a period of one hundred and twenty days after separation or release from such active service * * *."

The pertinent part of section 621 of the National Service Life Insurance Act of 1940, as amended (38 U. S. C. 822), reads:

"(a) Any person entitled to indemnity protection under section 2 of the Servicemen's Indemnity Act of 1951 *who is ordered into active service for a period exceeding thirty days*, shall, upon application in writing made within one hundred and twenty days after separation from such active service and payment of premiums as hereinafter provided, and without medical examination be granted insurance by the United States against the death of such person occurring while such insurance is in force. * * *"*[Italics supplied.]*

It is specifically provided that reservists who are called or ordered to active duty or active training duty are automatically insured, and that if the period of active duty is in excess of 30 days, they are protected by indemnity insurance for 120 days after release from active duty. This was made clear in Administrator's Decision No. 895, wherein it was said:

"All persons in the regular Army, Navy, Air Force, Marine Corps, or Coast Guard who were in active service (active duty) on or after June 27, 1950, are automatically covered by servicemen's indemnity insurance while in active service and for 120 days thereafter. Members of the National Guard are automatically covered if they are called or ordered to active duty or active training duty for at least 14 days. However, reservists and members of the National Guard who are ordered to serve for less than 30 days are automatically covered only for the period they serve; but if they are ordered to serve for more than 30 days their coverage continues for 120 days."

The italicized language of section 621, supra, is to be construed in the same manner as the language of section 5 of the Servicemen's Indemnity Act of 1951 (38 U. S. C. 854) was construed in connection with which it was said in Administrator's Decision No. 895:

"'Any person in the active service' within the intent of section 5, includes a person called or ordered to active duty as defined in section 2 of the act. This construction is required to give effect to the provisions of both section 2 and section 5 of the act. When conditions of active service within the intent of section 2 are met, the status continues for the duration of active service as therein defined."

In order to give effect to section 2 of the Servicemen's Indemnity Act of 1951, the construction is required that "active service for a period exceeding thirty days" includes "active duty or active training duty" in excess of 30 days.

Held: Regular Naval Reserve Officer Training Corps students who are appointed midshipmen are reservists within the meaning of section 2 of the Servicemen's Indemnity Act of 1951, and as such, when ordered to active training duty for a period in excess of 30 days, are eligible, on application made within 120 days after separation from service, for National Service Life Insurance under the provisions of section 621 of the National Service Life Insurance Act of 1940, as amended. (Opinion of the Solicitor, dated June 26, 1952, approved July 16, 1952.)

This decision is hereby promulgated for observance by all officers and employees of the Veterans' Administration.

CARL R. GRAY, Jr.,
Administrator of Veterans' Affairs.

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CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

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SECTION 2, PUBLIC LAW 23, 82D CONGRESS

SEC. 2. (58 U. S. C. 851). Except as hereinafter provided, on and after June 27, 1950, any person in the active service of the Army, Navy, Air Force, Marine Corps, Coast Guard, or the Reserve components thereof, including the National Guard when called or ordered to active duty or active training duty for fourteen days or more; *members of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, and the Air Force Reserve Officers' Training Corps, when called or ordered to active training duty for fourteen days or more while on such active training duty*; cadets and midshipmen at the United States Military, Naval, and Coast Guard Academies; commissioned officers of the Public Health Service while entitled to full military benefits as provided in section 212 (a) of the Act of July 1, 1944 (58 Stat. 689), as amended (42 U. S. C. 213); and commissioned officers of the Coast and Geodetic Survey while assigned to duty during a period of war or an emergency as proclaimed by the President or the Congress on projects for the Army, Navy, or Air Force in areas outside the continental United States or in Alaska or in coastal areas of the United States determined by the Department of Defense to be of immediate military hazard, shall be automatically insured by the United States, without cost to such person, against death in such service in the principal amount of \$10,000: *Provided*, That any person called to extended active service for a period exceeding thirty days shall continue to be so protected for a period of one hundred and twenty days after separation or release from such active service: *Provided further*, That persons in the Reserve components, including the National Guard, while engaged in aerial flights in Government owned or leased aircraft for any period, with or without pay, as an incident to their military or naval training, shall be deemed to be in the active service for the purposes of this Act: *And provided further*, That for the purposes of this part, any person, who, on or after June 27, 1950, was or shall be provisionally accepted and directed or ordered to report to a place for final acceptance or for entry upon active duty in the military or naval service and who died or shall die as the result of disability incurred while en route to such place and within one hundred and twenty days after the incurrence of such disability, or any registrant under the Selective Service Act of 1948, as amended, who on or after June 27, 1950, in response to an order to report for induction into the Armed Forces and who, after reporting to a local draft board, died or dies as the result of disability incurred while en route from such draft board to a designated induction station and within one hundred and twenty days after the incurrence of such disability shall be deemed to have died in active service.

