

Penalty for violation.

or naval authority. Any person found guilty of a violation of this section shall upon conviction be punished as provided in the first section of this Act.

Terms defined.

SEC. 4. The term "aircraft" as used in this Act means any contrivance known or hereafter invented, used, or designed for navigation or flight in the air. The expression "post, camp, or station" as used in this Act shall be interpreted to include naval vessels, military and naval aircraft, and any separate military or naval command.

Scope of Act.

SEC. 5. The provisions of this Act shall extend to all Territories, possessions, and places subject to the jurisdiction of the United States, whether contiguous thereto, or not and offenses under this Act when committed upon or over the high seas or elsewhere within the admiralty and maritime jurisdiction of the United States and outside the territorial limits thereof shall be punishable hereunder.

Approved, January 12, 1938.

[CHAPTER 3]

AN ACT

To increase the efficiency of the Coast Guard.

January 12, 1938
[S. 2575]

[Public, No. 419]

Coast Guard.
Commissioned officers placed out of line of promotion.

Retirement, if commissioned service 10 years or more.
Resignation, with one year's pay, if less.

Personnel Board,
annual meeting.

Composition, functions.

Review of Board's proceedings and decisions.

Reconsideration of case.

Proviso.
Limitation on reconsideration.

Decisions of Commandant and Secretary of the Treasury, effect of.

Reconsideration in case of disapproval by Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any commissioned officer of the Coast Guard, who, in accordance with regulations prescribed by the Secretary of the Treasury, heretofore has been or hereafter may be placed out of the line of promotion, may, at his own request (a) if his commissioned service is ten years or more, be placed upon the retired list with retired pay as prescribed by section 3 hereof, or (b) if his commissioned service is less than ten years, resign from the Coast Guard with one year's pay computed at the rate of pay he was receiving on the date of his resignation.

SEC. 2. The Secretary of the Treasury, at the direction of the President, shall assemble annually a Coast Guard Personnel Board, to be composed of not less than three commissioned officers on the active list of the Coast Guard, to select the officers, if any, whom the Board determines should be retired or placed out of the line of promotion, and to make recommendations with respect thereto. The proceedings and decisions of the Personnel Board shall be transmitted to the Commandant of the Coast Guard for review. If the Commandant shall approve the recommendation of the Personnel Board, the officer concerned shall be notified in writing of the action taken in his case, and he shall be entitled to have his case reconsidered by such Board, if, within thirty days after he receives notice as aforesaid, he files with the Commandant a written protest of the action taken, or appears, either in person or by counsel, before the Personnel Board: *Provided*, That no case shall be twice reconsidered by the Personnel Board. If the Commandant shall disapprove the recommendation of the Personnel Board, he shall transmit the same with his recommendation to the Secretary of the Treasury for final action. If the Secretary of the Treasury shall concur in the decision of the Commandant, the case shall be terminated, and the officer concerned shall retain his status in the Coast Guard to the same extent as if his case had not been considered. If the Secretary of the Treasury shall disapprove the recommendation of the Commandant and approve that of the Board, the officer concerned shall be notified as aforesaid, and shall be entitled to have his case reconsidered by the Personnel Board, subject to the same conditions as hereinbefore provided. At the expiration of thirty days after receipt of any officer

concerned of notice of the action taken in his case, in the event no protest is filed or appearance made as provided in this section, the recommendation of the Personnel Board, as approved by the Commandant or by the Secretary of the Treasury, as the case may be, shall be laid before the President by the latter with his recommendation. In the event of the reconsideration of the case of any officer, the Personnel Board shall, after carefully considering additional evidence, if any, submit its supplemental report and final recommendation in the case to the Commandant, who shall transmit the same with his recommendations to the Secretary of the Treasury. The Secretary of the Treasury shall lay the same before the President accompanied by his recommendation in the case. When considering the record of any officer of the Coast Guard, the Personnel Board shall give major importance to reports upon the officer made, in accordance with regulations prescribed by the Secretary of the Treasury, by his seniors. The President may, in any calendar year, pursuant to any recommendation so laid before him:

(a) Place out of the line of promotion such number of lieutenant commanders on the active lists as will not exceed the whole number nearest to 2 per centum of the officers in that grade as of January 1 of such year; except that such limitation shall not be construed to limit the number of lieutenant commanders who may be placed out of the line of promotion, in accordance with regulations prescribed by the Secretary of the Treasury, for failing to establish their mental, moral, and professional fitness for promotion, as required by existing law.

(b) Place upon the retired list such number of commissioned officers who have had thirty or more years of service as will not exceed the whole number nearest to 5 per centum of the number of officers falling within that classification on January 1 of such year.

(c) Place upon the retired list any officer who has been placed out of the line of promotion and who has had ten years or more of commissioned service.

SEC. 3. The annual pay of any officer who is retired under the provisions of this Act shall be $2\frac{1}{2}$ per centum of his active-duty pay at the time of his retirement, multiplied by the number of years of his service: *Provided*, That the retired pay of any officer retired pursuant to this Act shall not exceed 75 per centum of his active-duty pay at the time of his retirement. Years of service, for the purpose of computing retirement pay under the provisions of this Act, shall be computed in the same manner as is now or may hereafter be provided by law for the computation of years of service for voluntary retirement.

SEC. 4. The total number of officers retired involuntarily in any one calendar year pursuant to this Act shall not exceed the whole number nearest to 1 per centum of the total number of commissioned officers. The total number of officers who are permitted to resign from the Coast Guard with one year's pay or retire voluntarily pursuant to this Act shall not exceed in any one calendar year the whole number nearest to 2 per centum of the total number of commissioned officers.

SEC. 5. The provisions of this Act shall be supplementary to, but shall not be construed to limit or supersede, existing laws relating to retirement, examination for promotion, and promotion of Coast Guard officers.

SEC. 6. The provisions of this Act shall not apply to chief warrant officers.

Recommendation to be laid before the President.

Supplemental report, etc., in event of reconsideration.

Powers of President.

Lieutenant commanders, placement of restricted number out of line of promotion.

Commissioned officers with 30 years' service or more, retirement of restricted number.

Officers out of line of promotion with 10 years or more commissioned service, retirement.

Pay of officers so retired.

Proviso.
Maximum.

Computation of service.

Limitation on number of officers retired involuntarily in any year.

Number of officers permitted to resign, etc.

Provisions deemed supplementary to existing laws.

Not applicable to chief warrant officers.

Approved, January 12, 1938.