

HB 261

2022

26 | themselves to take action to remedy such situations, as outlined
27 | in the Kentucky and Virginia Resolutions of 1798, and

28 | WHEREAS, a founder of the United States, George Washington,
29 | once wrote, "The Constitution vests the power of declaring war
30 | in Congress; therefore, no offensive expedition of importance
31 | can be undertaken until after they shall have deliberated upon
32 | the subject and authorized such a measure," and

33 | WHEREAS, the Father of the Constitution, James Madison,
34 | once wrote, "The Constitution supposes, what the History of all
35 | Governments demonstrates, that the Executive is the branch of
36 | power most interested in war, and most prone to it. It has
37 | accordingly with studied care vested the question of war to the
38 | Legislature," and

39 | WHEREAS, the author of the Declaration of Independence,
40 | Thomas Jefferson, once wrote, "We have already given in example
41 | one effectual check to the dog of war by transferring the power
42 | of letting him loose from the Executive to the Legislative
43 | body..." and, "Considering that Congress alone is
44 | constitutionally invested with the power of changing our
45 | condition from peace to war, I have thought it my duty to await
46 | their authority for using force in any degree which could be
47 | avoided," and

48 | WHEREAS, another Constitutional framer, Alexander Hamilton,
49 | once wrote, "'The Congress shall have the power to declare war';
50 | the plain meaning of which is, that it is the peculiar and

51 exclusive duty of Congress, when the nation is at peace, to
 52 change that state into a state of war....," NOW, THEREFORE,
 53

54 Be It Enacted by the Legislature of the State of Florida:
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56 Section 1. Section 250.475, Florida Statutes, is created
 57 to read:

58 250.475 Mobilization of Florida National Guard into active
 59 duty combat.—

60 (1) SHORT TITLE.— This section shall be known as the
 61 "Defend the Guard Act."

62 (2) DEFINITIONS.—As used in this section, the term:

63 (a) "Active duty combat" means performing the following
 64 services in the active federal military service of the United
 65 States:

- 66 1. Participation in an armed conflict;
- 67 2. Performance of a hazardous service in a foreign state;
- 68 or
- 69 3. Performance of a duty through an instrumentality of
 70 war.

71 (b) "Official declaration of war" means an official
 72 declaration of war made by the United States Congress pursuant
 73 to Article I, Section 8, Clause 11 of the United States
 74 Constitution.

75 (3) MOBILIZATION INTO ACTIVE DUTY; DECLARATION OF WAR.—

76 Notwithstanding any other provision of this chapter, the Florida
77 National Guard and any member thereof may not be released from
78 this state into active duty combat unless the United States
79 Congress has made an official declaration of war or has taken an
80 official action pursuant to Article I, Section 8, Clause 15 of
81 the United States Constitution to explicitly call forth the
82 Florida National Guard and any member thereof for the enumerated
83 purposes of expressly executing the laws of the union, repelling
84 an invasion, or suppressing an insurrection. The Governor shall
85 take all actions necessary to comply with this section.

86 Section 2. This act shall take effect upon becoming a law.