

By Senator Pizzo

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1                   A bill to be entitled  
2       An act relating to mobilization of the National Guard;  
3       creating s. 250.475, F.S.; providing a short title;  
4       defining terms; prohibiting release of the Florida  
5       National Guard or any member thereof from this state  
6       into active duty combat without a declaration of war  
7       or other official action by the United States  
8       Congress; requiring the Governor to take all necessary  
9       actions to comply with such prohibition; providing an  
10      effective date.

11  
12           WHEREAS, Article I, Section 8 of the United States  
13   Constitution vests in the United States Congress the exclusive  
14   power of war, and

15           WHEREAS, in spite of the clear language of the United  
16   States Constitution vesting the power of war exclusively in the  
17   United States Congress, the United States executive branch has  
18   unconstitutionally assumed that power while the United States  
19   Congress has abdicated its constitutional duty, and

20           WHEREAS, although the United States Congress has not  
21   officially declared war in over 70 years, the United States has  
22   during that time gone to war repeatedly at the direction of the  
23   executive branch, and

24           WHEREAS, when such unconstitutional actions are taken by  
25   the Federal Government, it is the proper role of the states to  
26   take action to remedy such situations, as stated in the Virginia  
27   and Kentucky Resolutions of 1798, and

28           WHEREAS, founding father and first president George  
29   Washington wrote, "The Constitution vests the power of declaring

38-00602-22

2022422\_\_

30 war in Congress; therefore, no offensive expedition of  
31 importance can be undertaken until after they shall have  
32 deliberated upon the subject and authorized such a measure," and

33 WHEREAS, the Father of the Constitution, James Madison,  
34 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, wrote, "We have already given in example one  
41 effectual check to the dog of war by transferring the power of  
42 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 founding father and defender of the United  
49 States Constitution, Alexander Hamilton, wrote, "'The Congress  
50 shall have the power to declare war'; the plain meaning of which  
51 is, that it is the peculiar and exclusive duty of Congress, when  
52 the nation is at peace, to change that state into a state of  
53 war...", NOW, THEREFORE,

54  
55 Be It Enacted by the Legislature of the State of Florida:

56  
57 Section 1. Section 250.475, Florida Statutes, is created to  
58 read:

38-00602-22

2022422\_\_

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

61 (1) SHORT TITLE.—This section shall be known as the “Defend  
 62 the Guard Act.”

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

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

67 1. Participation in an armed conflict;

68 2. Performance of a hazardous service in a foreign state;

69 or

70 3. Performance of a duty through an instrumentality of 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.