
HOUSE BILL 2204

State of Washington

64th Legislature

2015 Regular Session

By Representatives Shea, Young, Taylor, Condotta, Scott, G. Hunt, and McCaslin

Read first time 03/24/15. Referred to Committee on Community Development, Housing & Tribal Affairs.

1 AN ACT Relating to the defend the guard act; adding a new section
2 to chapter 38.40 RCW; and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This act may be known and cited as the
5 defend the guard act.

6 NEW SECTION. **Sec. 2.** The legislature finds that:

7 (1) Section 8, Article I of the United States Constitution vests
8 in the United States congress the exclusive power of war.

9 (2) In spite of the clear language of the Unites States
10 Constitution vesting the power over war exclusively in the United
11 States congress, the United States executive branch has
12 unconstitutionally assumed that power while the United State congress
13 has abdicated its constitutional duty.

14 (3) Although the United States congress has not declared war in
15 over seventy years, the nation has since gone to war repeatedly at
16 the whim of the executive branch.

17 (4) When such unconstitutional actions are taken by the federal
18 government, it is the proper role of the states themselves to take
19 action to remedy such situations, as outlined in the Kentucky and
20 Virginia Resolutions of 1798.

1 (5) A founder of this country, George Washington, once wrote:
2 "The constitution vests the power of declaring war in Congress;
3 therefore no offensive expedition of importance can be undertaken
4 until after they shall have deliberated upon the subject and
5 authorized such a measure."

6 (6) The father of the Constitution, James Madison, once wrote:
7 "The Constitution supposes, what the History of all Governments
8 demonstrates, that the Executive is the branch of power most
9 interested in war, and most prone to it. It has accordingly with
10 studied care vested the question of war to the Legislature."

11 (7) The author of the Declaration of Independence, Thomas
12 Jefferson, once wrote: "We have already given in example one
13 effectual check to the dog of war by transferring the power of
14 letting him loose from the Executive to the Legislative body..." and
15 "Considering that Congress alone is constitutionally invested with
16 the power of changing our condition from peace to war, I have thought
17 it my duty to await their authority for using force in any degree
18 which could be avoided."

19 (8) Another constitutional framer, Alexander Hamilton, once
20 wrote: "The Congress shall have the power to declare war"; the plain
21 meaning of which is, that it is the peculiar and exclusive duty of
22 Congress, when the nation is at peace, to change that state into a
23 state of war...."

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 38.40
25 RCW to read as follows:

26 (1) For the purposes of this section:

27 (a) "Active duty combat" means performing the following services
28 in the active military service of the United States:

29 (i) Participation in an armed conflict;

30 (ii) Performance of a hazardous service;

31 (iii) Performance of a duty under conditions simulating war; and

32 (iv) Performance of a duty through an instrumentality of war.

33 (b) "Official declaration of war" means an official declaration
34 of war made by the United States congress pursuant to section 8,
35 Article I of the United States Constitution.

36 (2) Notwithstanding any other provision of this code, the
37 Washington state guard may not be released from the state into active
38 duty combat unless the United States congress has passed an official
39 declaration of war or has taken an official action pursuant to

1 section 8, Article I of the United States Constitution to explicitly
2 call forth the state militia to execute the laws of the union, repel
3 an invasion, or suppress an insurrection. The governor shall take all
4 actions necessary to comply with the requirements of this section.

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