

HOUSE BILL NO. HB0197

Defend the guard act.

Sponsored by: Representative(s) Andrew, Olsen, Pendergraft,
Provenza, Singh and Western and Senator(s)
Hutchings, Ide and Rothfuss

A BILL

for

1 AN ACT relating to the Wyoming national guard; providing
2 legislative findings; prohibiting the release of the
3 Wyoming national guard into active duty combat as
4 specified; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** The Wyoming legislature finds that this
9 act, creating the Defend the Guard Act, follows the
10 principles embodied in the United States constitution and
11 the writings of the founders. Article I, section 8 of the
12 United States constitution vests in the congress the
13 exclusive power to declare war. By abdicating the war
14 powers to the executive branch, the United States congress

1 has failed to follow the United States constitution and the
2 intent of the founders.

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4 **Section 2.** W.S. 19-9-104 is created to read:

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6 **19-9-104. Defend the guard act.**

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8 (a) This section shall be known and may be cited as
9 the "Defend the Guard Act".

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11 (b) For the purposes of this section:

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13 (i) "Active duty combat" means performing the
14 following services in the active federal military service
15 of the United States:

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17 (A) Participation in an armed conflict;

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19 (B) Performance of a hazardous service
20 relating to an armed conflict in a foreign state; or

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22 (C) Performance of a duty through an
23 instrumentality of war.

1

2 (ii) "Official declaration of war" means an
3 official declaration of war made by the United States
4 congress pursuant to article I, section 8, clause 11 of the
5 United States constitution.

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7 (c) Notwithstanding any other provisions of law, the
8 Wyoming national guard and any member thereof shall not be
9 released from the state into active duty combat unless the
10 United States congress has passed an official declaration
11 of war or has taken an official action pursuant to article
12 I, section 8, clause 15 of the United States constitution
13 to explicitly call forth the Wyoming national guard and any
14 member thereof for the enumerated purposes of expressly
15 executing the laws of the union, repelling invasion or
16 suppressing an insurrection. The governor shall take all
17 actions necessary to comply with the requirements of this
18 section.

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20 (d) Nothing in this section limits or prohibits the
21 governor from consenting to the deployment of any Wyoming
22 national guard member under title 32 of the United States
23 Code for the purpose of providing defense support for civil

1 authority missions within the United States and United
2 States territories.

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4 **Section 3.** W.S. 19-9-204(b) is amended to read:

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6 **19-9-204. Command of military force called into**
7 **service.**

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9 (b) Subject to W.S. 19-9-104 the national guard of
10 the state may be ordered into the service of the United
11 States by the president of the United States for any
12 purpose for which he is authorized to use militia of the
13 states by the constitution of the United States.

14

15 **Section 4.** This act is effective July 1, 2023.

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17

(END)