

HOUSE BILL NO. HB0208

Defend the guard act.

Sponsored by: Representative(s) Andrew, Bear, Blackburn, Burt, Clifford, Duncan, Gray, Hallinan, Haroldson, Hunt, Ottman, Provenza, Romero-Martinez, Western, Wharff and Zwonitzer and Senator(s) Bouchard, Case, Hutchings 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 combat as specified; and
4 providing for an effective date.

5

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

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

1 branch, the United States congress has failed to follow the
2 United States constitution and the 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 to expressly
15 execute the laws of the union, repel invasion or suppress
16 an insurrection. The governor shall take all actions
17 necessary to comply with the requirements of this section.

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

1 missions within the United States and United States
2 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, 2021.

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17

(END)