

**SHB 1321 - H AMD 55**

By Representative Walsh

**NOT ADOPTED 03/10/2025**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The defend the guard act follows the  
4 principles that guided the writers of our inspired Constitution,  
5 embodied in the United States Constitution and the writings of the  
6 founders. Article I, section 8 of the United States Constitution  
7 vests in the congress the exclusive power to declare war, and by  
8 abdicating the war powers to the executive branch, the United States  
9 congress has failed to follow the United States Constitution and the  
10 intent of the founders. The legislature recognizes that the  
11 Washington national guard is separate in function and authority from  
12 the federal branches of the military. The legislature of Washington  
13 should zealously protect its authority over its own militia to ensure  
14 that the mission outlined in Article III of the state Constitution  
15 can be fulfilled. It is the intent of the legislature that, by  
16 clarifying the roles and functions of the Washington national guard  
17 and related units of the state military department, the legislature  
18 will simultaneously clarify the governor's authority to limit outside  
19 militia activities within the state.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 38.08  
21 RCW to read as follows:

22 (1) Notwithstanding any other provision of law to the contrary,  
23 the national guard and any member thereof shall not be released from  
24 the state into active duty combat unless the United States congress  
25 has passed an official declaration of war or has taken an official  
26 action pursuant to Article I, section 8, clause 15 of the United  
27 States Constitution to explicitly call forth the national guard and  
28 any member thereof for the enumerated purposes to expressly execute  
29 the laws of the union, repel an invasion, or suppress an  
30 insurrection. The governor shall take all actions necessary to comply  
31 with the requirements of this section. Nothing in this section limits  
32 or prohibits the governor from consenting to the deployment of any

1 national guard member pursuant to 32 U.S.C. Sec. 101 et seq., defense  
2 support for civil authority missions within the United States and  
3 United States territories.

4 (2) For the purposes of this section:

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

7 (i) Participation in an armed conflict;

8 (ii) Performance of a hazardous service relating to an armed  
9 conflict in a foreign state; or

10 (iii) Performance of a duty through an instrumentality of war.

11 (b) "Official declaration of war" means an official declaration  
12 of war made by the United States congress pursuant to Article I,  
13 section 8, clause 11 of the United States Constitution.

14 NEW SECTION. **Sec. 3.** This act may be known and cited as the  
15 defend the guard act.

16 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of  
18 the state government and its existing public institutions, and takes  
19 effect immediately."

20 Correct the title.

EFFECT: Strikes the entirety of the substitute bill and, subject to applicable laws, prohibits the state National Guard from being released into active federal military service of the United States unless Congress passes an official declaration of war or takes official action to call forth the National Guard for certain purposes. Directs the governor to take all actions necessary to comply with requirements. Provides a title for the act. Adds an emergency clause.

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