

HOUSE BILL REPORT

HB 1321

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to the governor's authority to limit outside militia activities within the state.

Brief Description: Concerning the governor's authority to limit outside militia activities within the state.

Sponsors: Representatives Mena, Ortiz-Self, Parshley, Berry, Reeves, Walen, Gregerson, Ryu, Alvarado, Street, Simmons, Reed, Ormsby, Macri, Ramel, Tharinger, Pollet, Nance, Cortes, Doglio and Scott.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/29/25, 1/31/25 [DPS].

Brief Summary of Substitute Bill

- Prohibits a military force from another state, territory, or district from entering Washington for the purpose of military duty unless under the authority of the President or with permission from the Governor.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Mena, Chair; Stearns, Vice Chair; Doglio and Farivar.

Minority Report: Do not pass. Signed by 2 members: Representatives Walsh, Assistant Ranking Minority Member; Chase.

Staff: Connor Schiff (786-7093).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

National Guard.

The National Guard is a state-based military force with units in each state, the District of Columbia (D.C.), and the territories of Guam, the United States (US) Virgin Islands, and Puerto Rico. In general, the National Guard of each state or territory is funded by the state or territory and under the control of the state or territory's governor. The D.C. National Guard is under the sole control of the federal government.

The National Guard may operate in one of three different statuses.

State Active Duty.

A Governor can activate National Guard personnel to "State Active Duty" in response to natural or man-made disasters or Homeland Defense missions. State Active Duty status is regulated under the statutes of each state.

Title 10 of the United States Code.

Under Title 10 of the United States Code (U.S.C.), the President is permitted to order National Guard forces to active duty or call them into federal service. National Guard forces temporarily become part of the federal armed forces and operate under the command and control of the President until returned to state status. Under Title 10 U.S.C. status, the National Guard is considered to be "federalized."

Title 32 of the United States Code.

Title 32 U.S.C. authorizes the National Guard to perform activities specified by Congress and undertake missions at the request of the President or Secretary of Defense. Activities are paid with federal funds, but the National Guard remains under the command and control of the state or territory's governor.

Interstate Compacts.

The Washington Military Department is a signatory to two multi-state compacts: the Emergency Management Assistance Compact (EMAC) and the Pacific Northwest Emergency Management Arrangement (PNEMA). The EMAC is a national interstate mutual aid compact that facilitates the sharing of resources, personnel, and equipment across state lines during times of disaster and emergency. Membership of the EMAC includes all 50 states, Guam, the US Virgin Islands, Puerto Rico, and D.C. The PNEMA is an interjurisdictional agreement that enables entities to provide mutual assistance and share resources for cooperative activities across jurisdictional lines. Membership of the PNEMA includes Washington, Oregon, Idaho, Alaska, the Province of British Columbia, and the Yukon Territory. Assistance occurs under the EMAC and the PNEMA only upon request by a state. To receive assistance under the EMAC, the Governor must issue a proclamation.

Summary of Substitute Bill:

A military force from another state, territory, or district, may not enter Washington for the purpose of military duty unless the military force has permission from the Governor or is acting under the authority of the President.

Substitute Bill Compared to Original Bill:

"Militia" is replaced with "military force." Military forces from territories and districts are added to the list of military forces that may not enter Washington without authorization from the Governor or unless under the authority of the President. The specification that permission from the Governor be written is removed. The provision permitting the Governor to withdraw any previously granted authorization is removed. The provision requiring militia from another state to immediately cease activities and leave the state upon notice of withdrawal or denial of entry is removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill allows Washington to retain autonomy without interference from other states. There are dramatic shifts in policy, which is creating uncertainty for the people of Washington. Other states should not be coming into Washington to try to enforce federal law. Washington has the right to restrict armed forces from entering the state without permission. Other states have substantially similar laws or have similar prohibitions on militia from other states entering their state without authorization. There is nothing on the books that provides this protection. It would not impede other states providing support during disasters. It would have no fiscal impact. This bill serves Washington's laws. It would not negatively impact Washington's National Guard. Washington's National Guard would be able to train with the units of other states. The units would be able to continue to share resources and provide mutual aid. Governor Ferguson strongly supports the bill.

(Opposed) Militia has a broader meaning historically and constitutionally than is contemplated in the bill; it includes more than the National Guard. Citizen militias exist in many other states. This language lacks historical context.

Persons Testifying: (In support) Representative Sharlett Mena, prime sponsor; and Nathan Bays, The Governor's Office.

(Opposed) Jeff Pack, Me.

Persons Signed In To Testify But Not Testifying: None.