Session of 2025

HOUSE BILL No. 2188

By Committee on Federal and State Affairs

Requested by Representative Fairchild

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AN ACT concerning the Kansas national guard; enacting the defend the guard act; prescribing when the national guard may be released into active duty combat.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The provisions of this section shall be known and may be cited as the defend the guard act.

(b) The defend the guard act follows the principles that guided the writers of our inspired constitution, embodied in the constitution of the United States and the writings of the founders. Article I, section 8 of the constitution of the United States vests in the congress the exclusive power to declare war, and article 8 of the constitution of the state of Kansas establishes our governor as the commander in chief of the state militia while directing the Kansas legislature to provide for organizing, equipping and disciplining the militia. By usurping the authority of Kansas officials and by abdicating the war powers to the executive branch, the United States congress has failed to follow the constitution of the United States and the intent of the founders.

(c) Notwithstanding any other provisions of law, the Kansas national guard, or any member thereof, shall not be released from the state into active duty combat unless the United States congress has passed an official declaration of war or has taken an official action pursuant to article I, section 8, clause 15 of the constitution of the United States to explicitly call forth the Kansas national guard, or any member thereof, for the enumerated purposes to expressly execute the laws of the union, repel an invasion or suppress an insurrection. The governor shall take all actions necessary to comply with the requirements of this act.

(d) Nothing in this section limits or prohibits the governor from consenting to the deployment of any Kansas national guard member on defense support for civil authority missions within the United States and territories of the United States under title 32 of the United States code.

(e) For the purposes of this section:

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

(A) Participation in an armed conflict;

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

(C) performance of a duty through an instrumentality of war.

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

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.