

1 AN ACT relating to the National Guard.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 38 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) For the purposes of this section:*

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

8 *1. Participation in an armed conflict;*

9 *2. Performance of a hazardous service relating to an armed conflict in a*
10 *foreign state; or*

11 *3. Performance of a duty through an instrumentality of war; and*

12 *(b) "Official declaration of war" means a declaration of war by the United*
13 *States Congress pursuant to Article 1, Section 8, Clause 11 of the United*
14 *States Constitution.*

15 *(2) Notwithstanding any other provisions of law, the Kentucky National Guard and*
16 *any member of the Kentucky National Guard shall not be released from the state*
17 *into active duty combat unless the federal government has satisfied any*
18 *outstanding balance to the Kentucky National Guard, and the United States*
19 *Congress has:*

20 *(a) Passed an official declaration of war; or*

21 *(b) Taken official action pursuant to Article 1, Section 8, Clause 15 of the*
22 *United States Constitution to explicitly call forth the Kentucky National*
23 *Guard and any member of the Guard for enumerated purposes to expressly*
24 *execute the laws of the Commonwealth, repel invasion, or suppress*
25 *insurrections.*

26 *(3) Nothing in this section limits or prohibits the Governor from consenting to the*
27 *deployment of any Kentucky National Guard member as set forth in Title 32 of*

1 *the United States Code for defense in support of civil authority missions within*
2 *the United States or its territories.*

3 ➔Section 2. This Act may be cited as the Defend the Guard Act.