

1 AN ACT relating to the Kentucky 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) As used in 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
14 Constitution of the United States.

15 (2) Notwithstanding any other provision of law to the contrary, the Kentucky
16 National Guard and any member of the Kentucky National Guard shall not be
17 released from the state into active duty combat unless the federal government has
18 satisfied any outstanding balance to the Kentucky National Guard and the United
19 States 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 Constitution of the United States to explicitly call forth the Kentucky
23 National Guard and any member of the Kentucky National Guard for
24 enumerated purposes to expressly execute the laws of the Commonwealth,
25 repel invasion, or suppress insurrection.

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:*
- 2 *(a) Civil authority missions within the United States or its territories; or*
- 3 *(b) Border protection, for not more than thirty (30) days, when the governor of*
- 4 *a state or territory has declared an invasion.*
- 5 ➔Section 2. This Act may be cited as the Defend the Guard Act.