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A bill to be entitled

An act relating to mobilization of the National Guard; creating s. 250.475, F.S.; providing a short title; providing definitions; prohibiting release of the Florida National Guard or any member thereof from this state into active duty combat without a declaration of war or other official action by the United States Congress; requiring the Governor to take all necessary actions to comply with such prohibition; providing an effective date.

WHEREAS, Article I, Section 8 of the Constitution of the United States vests in the United States Congress the exclusive power of war, and

WHEREAS, in spite of the clear language of the United States Constitution vesting the power of war exclusively in the United States Congress, the United States executive branch has unconstitutionally assumed that power while the United States Congress has abdicated its constitutional duty, and

WHEREAS, although the United States Congress has not declared war in over 70 years, the United States has since gone to war repeatedly at the whim of the executive branch, and

WHEREAS, when such unconstitutional actions are taken by the Federal Government, it is the proper role of the states themselves to take action to remedy such situations, as outlined

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in the Kentucky and Virginia Resolutions of 1798, and

WHEREAS, a founder of the United States, George Washington, once wrote, "The Constitution vests the power of declaring war in Congress; therefore, no offensive expedition of importance can be undertaken until after they shall have deliberated upon the subject and authorized such a measure," and

WHEREAS, the Father of the Constitution, James Madison, once wrote, "The Constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care vested the question of war to the Legislature," and

WHEREAS, the author of the Declaration of Independence, Thomas Jefferson, once wrote, "We have already given in example one effectual check to the dog of war by transferring the power of letting him loose from the Executive to the Legislative body...," and, "Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided," and

WHEREAS, another Constitutional framer, Alexander Hamilton, once wrote, "'The Congress shall have the power to declare war'; the plain meaning of which is, that it is the peculiar and exclusive duty of Congress, when the nation is at peace, to

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51	change that state into a state of war, "NOW, THEREFORE,
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53	Be It Enacted by the Legislature of the State of Florida:
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55	Section 1. Section 250.475, Florida Statutes, is created
56	to read:
57	250.475 Mobilization of National Guard into active duty
8 6	<pre>combat</pre>
59	(1) SHORT TITLE. This section shall be known as the
50	"Defend the Guard Act."
51	(2) DEFINITIONS.—As used in this section, the term:
52	(a) "Active duty combat" means performing the following
53	services in the active federal military service of the United
54	States:
55	1. Participation in an armed conflict;
56	2. Performance of a hazardous service in a foreign state;
57	<u>or</u>
58	3. Performance of a duty through an instrumentality of
59	war.
70	(b) "Official declaration of war" means an official
71	declaration of war made by the United States Congress pursuant
72	to Article I, Section 8, Clause 11 of the United States
73	Constitution.
7 4	(3) MOBILIZATION INTO ACTIVE DUTY; DECLARATION OF WAR.
75	Notwithstanding any other provision of this chapter, the Florida

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National Guard and any member thereof may not be released from this state into active duty combat unless the United States

Congress has made an official declaration of war or has taken an official action pursuant to Article I, Section 8, Clause 15 of the United States Constitution to explicitly call forth the

Florida National Guard and any member thereof for the enumerated purposes of expressly executing the laws of the union, repelling an invasion, or suppressing an insurrection. The Governor shall take all actions necessary to comply with this section.

Section 2. This act shall take effect upon becoming a law.

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