

1 H.355

2 Introduced by Representative Headrick of Burlington

3 Referred to Committee on

4 Date:

5 Subject: Internal security and public safety; National Guard; federal duty

6 Statement of purpose of bill as introduced: This bill proposes to require the
7 Governor to review every order to place a unit of the Vermont National Guard
8 in federal active duty status for service in a military conflict to determine
9 whether that order was issued in conformance with the requirements of the
10 U.S. Constitution.

11 An act relating to review of orders placing the Vermont National Guard in
12 federal active duty status

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. SHORT TITLE

15 This act may be cited as the “Vermont Defend the Guard Act”.

16 Sec. 2. FINDINGS

17 The General Assembly finds that:

18 (1) Under Article I, Section 8 of the U.S. Constitution, Congress
19 possesses the express authority to declare war, ensuring a system of checks and
20 balances.

1 (B) performance of hazardous services relating to an armed conflict
2 in a foreign state; and

3 (C) duties performed using instruments of war.

4 (2) “Official declaration of war” means a formal declaration of war
5 issued pursuant to Article I, Section 8 of the U.S. Constitution.

6 § 371. REVIEW OF FEDERAL ORDERS; AUTHORITY

7 (a) The Governor shall not release the Vermont National Guard into active
8 duty combat unless the U.S. Congress has passed an official declaration of war
9 or has explicitly called forth the Vermont National Guard pursuant to Article I,
10 Section 8, Clause 15 of the U.S. Constitution for one of the following
11 purposes:

12 (1) repelling a military invasion of the United States;

13 (2) suppressing an insurrection; or

14 (3) executing the laws of the United States, provided that the laws were
15 enacted consistent with the provisions of the U.S. Constitution.

16 (b) The Governor shall review all orders that place any unit of the Vermont
17 National Guard on federal active duty status to determine if it is consistent with
18 the requirements of subsection (a) of this section. If the Governor determines
19 that the order is not consistent with the requirements of subsection (a) of this
20 section, the Governor shall take all necessary and appropriate actions to
21 prevent the Vermont National Guard from being placed on federal active duty.

1 (c) Within 10 business days after completing a review pursuant to
2 subsection (b) of this section, the Governor shall notify the General Assembly
3 of the receipt of the federal deployment directive and the Governor's
4 determination. The report shall summarize the federal directive and its scope
5 and shall explain the Governor's review process for determining the directive's
6 legality and constitutionality.

7 (d) This section shall not be construed to:

8 (1) prohibit the Governor from consenting to deployment of the
9 Vermont National Guard for domestic missions under Title 32 of the United
10 States Code, including disaster response and homeland security; or

11 (2) limit the authority of the Vermont National Guard to engage in
12 training missions or humanitarian deployments outside the United States.

13 Sec. 4. IMPLEMENTATION AND COMPLIANCE

14 The Governor shall take all necessary steps to ensure compliance with this
15 act, including rejecting federal orders for deployment into active duty combat
16 unless the criteria established in this act are met. Any order conflicting with
17 this act shall be deemed invalid and unenforceable under Vermont law.

18 Sec. 5. EFFECTIVE DATE

19 This act shall take effect on July 1, 2025.