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# A BILL FOR AN ACT

RELATING TO THE HAWAII NATIONAL GUARD.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. This Act shall be known and may be cited as the  
2 "Defend the Guard Act."

3 SECTION 2. Chapter 121, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§121- Hawaii national guard; terms for release from  
7 state control; active duty combat. (a) Notwithstanding any  
8 other provision of law to the contrary, the Hawaii national  
9 guard and any member thereof shall not be released from the  
10 State into active duty combat unless the United States Congress  
11 has:

- 12 (1) Passed an official declaration of war; or  
13 (2) Taken an official action pursuant to Article I,  
14 Section 8, Clause 15 of the United States Constitution  
15 to explicitly call forth the Hawaii National Guard to:  
16 (A) Execute the laws of the union;  
17 (B) Repel an invasion; or



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1            (C) Suppress an insurrection.

2            (b) The governor shall take any action necessary to comply  
3 with the requirements of this section.

4            (c) For the purposes of this section:

5            "Active duty combat" means performing any of the following  
6 services in the active federal military service of the United  
7 States:

8            (1) Participation in an armed conflict;  
9            (2) Performance of a hazardous service in a foreign state;  
10            or  
11            (3) Performance of a duty through an instrumentality of  
12            war.

13            "Official declaration of war" means an official declaration  
14 of war made by the United States Congress pursuant to Article I,  
15 Section 8, Clause 11 of the United States Constitution."

16            SECTION 3. New statutory material is underscored.

17            SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:   
JAN 22 2021



# H.B. NO. 406

**Report Title:**

Hawaii National Guard; Terms for Release from State Control;  
Active Duty Combat

**Description:**

Prohibits the Hawaii National Guard from being released from the State into active duty combat unless the United States Congress passes an official declaration of war or takes an official action pursuant to its constitutional powers to call the National Guard to execute the laws of the union, repel an invasion, or suppress an insurrection. Requires the Governor to take any action necessary to comply with those requirements.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

