

Sixty-ninth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1315**

Introduced by

Representatives Heilman, D. Johnston, Hendrix, Morton, Nehring, Marschall, Toman,  
Hoverson, Kasper, VanWinkle

Senators Magrum, Clemens

1 A BILL for an Act to create and enact a new section to chapter 37-01 of the North Dakota  
2 Century Code; relating to the deployment of the North Dakota national guard; and to declare an  
3 emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 37-01 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **National guard - Active duty combat prohibited - Exception.**

8 1. As used in this section:

9 a. "Active duty combat" means performing the following services in the active  
10 federal military service of the United States:

11 (1) Participating in an armed conflict;

12 (2) Performing a hazardous service relating to an armed conflict in a foreign  
13 state; or

14 (3) Performing a duty through an instrumentality of war.

15 b. "Official declaration of war" means an official declaration of war made by the  
16 Congress of the United States pursuant to clause 11 of section 8 of article I of the  
17 Constitution of the United States.

18 2. The North Dakota national guard may not be released from the state into active duty  
19 combat unless the Congress of the United States has passed an official declaration of  
20 war or has taken an official action pursuant to clause 15 of section 8 of article I of the  
21 Constitution of the United States to explicitly call forth the North Dakota national guard  
22 and any members for the enumerated purposes to expressly execute the laws of the  
23 union, repel an invasion, or suppress an insurrection.

- 1        3. The governor shall take all actions necessary to comply with this section. This section  
2        does not limit the governor from consenting to the deployment of the North Dakota  
3        national guard under title 32 of the United States Code, for defense support for civil  
4        authority missions within the United States and United States territories.

5        **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.