

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1285

H.P. 945

House of Representatives, March 29, 2021

**An Act To Require an Official Declaration of War or a
Congressional Action To Call Out the State Militia before the Maine
National Guard Is Released for Combat Duty**

Received by the Clerk of the House on March 25, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SAMPSON of Alfred.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 37-B MRSA §191** is enacted to read:

3 **§191. Mobilization of Maine National Guard into active duty combat**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

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

8 (1) Participation in an armed conflict;

9 (2) Performance of a hazardous service in a foreign state; or

10 (3) Performance of a duty through an instrumentality of war.

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

14 **2. Release of guard.** Notwithstanding any provision of law to the contrary, the Maine
15 National Guard and any member of the Maine National Guard may not be released from
16 the State into active duty combat unless the United States Congress has passed an official
17 declaration of war or has taken an official action pursuant to the United States Constitution,
18 Article I, Section 8, Clause 15 to explicitly call forth the Maine National Guard and any
19 member of the Maine National Guard to expressly execute the laws of the union, repel an
20 invasion or suppress an insurrection. The Governor shall take all actions necessary to
21 comply with the requirements of this section.

22 **SUMMARY**

23 This bill requires an official declaration of war or an action to call forth the state militia
24 by the United States Congress before members of the Maine National Guard may be
25 released from state control to participate in active duty combat.