

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1054

S.P. 423

In Senate, March 7, 2023

**An Act to Prohibit the Maine National Guard from Combat
Deployment Absent an Act of the United States Congress**

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.
Cosponsored by Representative HYMES of Waldo and
Representatives: ANDREWS of Paris, BOYER of Poland, COLLINGS of Portland,
FAULKINGHAM of Winter Harbor, O'NEIL of Saco, SAMPSON of Alfred, WHITE of
Guilford.

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

2 **Sec. 1. 37-B MRSA §187-A** is enacted to read:

3 **§187-A. Deployment to 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 the following services in the active United
7 States Armed Forces:

8 (1) Participation in armed combat in a foreign nation;

9 (2) Performance of a hazardous service relating to an armed conflict in a
10 jurisdiction outside of the United States or the territories of the United States; or

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

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

14 **2. Release into active duty combat.** The military forces or a member of the military
15 forces may not be released from the State into active duty combat unless the United States
16 Congress has passed an official declaration of war or has taken an official action for an
17 enumerated purpose under the United States Constitution, Article I, Section 8, Clause 15.

18 **3. Governor actions.** The Governor shall take all actions necessary to comply with
19 subsection 2 and may deploy the military forces for a civil mission within the United States
20 and the territories of the United States pursuant to section 103. This section does not
21 prohibit the Governor from deploying the military forces under 32 United States Code.

22 **SUMMARY**

23 This bill prohibits the release of state military forces into active duty combat in a
24 foreign nation absent an official declaration of war or official action for an enumerated
25 constitutional purpose passed by the United States Congress and allows the Governor to
26 deploy the state military forces for civil missions within the United States or the territories
27 of the United States.