

—Slug:..... COMM-0859.opin.letter.000\_burke  
—Contributor..... Ed Burke  
—Contributor email..... edburkevt56@gmail.com  
—For section..... Voices/Letters from readers  
—Format..... LETTERS - Opinions - Letters to the Editor  
—Dateline..... Brattleboro  
—Article Number:..... 43339



**Notes from editor (not for publication):**



HEADLINE ELEMENTS:

####BEGIN HED####

1 Act needed to prevent misuse of Vermont National  
2 Guard

####END HED####

####BEGIN SUBHED####

3

####END SUBHED####

4 TEXT BODY:

####BEGIN TEXT####

5 In response to Rep. Laura Sibilias legislative update on  
6 House 355, the Defend the Guard Act, introduced in the Vermont  
7 House of Representatives on Feb. 26, 2025, yet to be voted on:  
8 this act is critical to prevent the federal misuse of the Vermont  
9 National Guard.  
10 The act would require the governor to review all orders  
11 that place the Vermont National Guard on "federal active duty

12 status,” and to take “all necessary and appropriate action to  
13 prevent the Vermont National Guard from being placed on  
14 federal active duty” unless the U.S. Congress has passed an  
15 official declaration of war or has explicitly called the Vermont  
16 National Guard to repel a military invasion of the United States;  
17 suppress an insurrection; or execute constitutional laws of the  
18 United States.

19 I agree that we have not declared war since 1942, but  
20 that condition can be rephrased in the act to require that  
21 deployment for military excursions only brought by Congress, as  
22 required by the U.S. Constitution, such as the authorizations for  
23 the Vietnam, Iraq, Afghanistan wars.

24 Congress has explicitly voted to not authorize the current  
25 military action against Iran. As such, the Defend the Guard Act  
26 could require our governor to refuse to release the Vermont  
27 National Guard for federal active duty in this unconstitutional  
28 war.

29 You expressed concern that such an action by our  
30 governor would “face immediate legal challenge and likely lose  
31 in federal court.” You refer to the U.S. Supreme Court case  
32 *Perpich v. U.S. Department of Defense* as preventing a governor  
33 from refusing to release a state’s National Guard for deployment  
34 to combat.

35 That decision was not that broad and, in fact, it  
36 recognized there may be instances where a state’s need for its  
37 National Guard supersedes Congress’ power to federalize the  
38 Guard, such as in times of local emergency, when a governor  
39 may “veto the proposed mission.”

40 Based on the reasoning in *Perpich*, the act likely would  
41 be upheld in federal court if the governor refuses to release the  
42 Vermont National Guard for deployment as part of an  
43 unconstitutional military excursion.

44 I urge my fellow Vermonters to contact their legislators to  
45 revise the Defend the Guard Act to align with Article 32 of the

46 United States Code regarding States' and Congress' control of the  
47 National Guard and to enact it in the next legislative session.

####END TEXT####

BIO/COATTAIL:

48 ####BEGIN BIO/COATTAIL####

####END BIO/COATTAIL####

*LAST ISSUE IN WHICH THIS FILE CAN BE RUN:*

49 ####BEGIN MAXISSUE####

0

####END MAXISSUE####

LINKS:

50 ####BEGIN LINKS####

####END LINKS####

VIDEO:

51 ####BEGIN VIDEO####

####END VIDEO####

LOGLINE (SOCIAL MEDIA):

52 ####BEGIN LOGLINE####

####END LOGLINE####