

Under existing California law, the state's Military Department consists of the office of the Adjutant General, who serves as the senior military officer of the state and administers the Military Department, together with the California National Guard and the State Guard, while the Governor serves as commander in chief of the state militia. Federal law also permits interstate mutual aid through the Emergency Management Assistance Compact (EMAC), which allows military assistance among member states when the governor of an affected state declares an emergency.

The National Guard occupies a unique legal position because it can operate under both state and federal authority, and the source of that authority determines who exercises command and control. When National Guard members are activated on state active duty, they remain under the command of the governor and carry out state missions, such as emergency response or other in-state operations. When they serve under Title 32 of the United States Code, they also generally remain under the governor's command, even though the service is federally authorized and funded in certain circumstances. By contrast, when Guard members are called into Title 10 federal active duty, they are placed in federal service and no longer operate under state command. This distinction matters in domestic operations because it determines whether military personnel are acting under state authority or federal authority.

California law does not currently contain a clear statutory requirement that military forces from another state obtain the Governor's permission before entering California to perform military duty or law enforcement functions. That issue has received greater attention in light of recent disputes over the use of military personnel in domestic operations, including the Title 10 activation of National Guard personnel in Los Angeles in June 2025 and the resulting litigation over federal authority, state control, and the permissible role of troops in civilian settings. Several other states, including Maryland, Texas, Kansas, Oklahoma, Idaho, North Dakota, and Washington, have enacted similar laws, and related legislation has also been introduced in Oregon.

COMMENT

According to the author: "The Title 10 activation of National Guard personnel across the country this past summer drew attention to state and federal authorities governing the use of National Guard in domestic situations. While Governors do not have command and control over their National Guards or other Military Forces in a Title 10 (Federal Active Duty) status, they do retain command and control over their National Guards in the traditional Title 32 Status and for state emergency activations. This legislation protects state sovereignty by ensuring that military personnel from other states only enter California for appropriate missions and training. Other states' military forces should not be used to enforce federal law in California unless activated under the correct federal authority."

SB 1354 would require state approval before certain out-of-state military forces may operate in California. Specifically, the bill would prohibit military personnel from another state, territory, or district from entering California to perform military duty or law enforcement functions unless they have permission from the Governor, or from the Adjutant General if the Governor delegates that authority. The bill would not apply to personnel serving in federal active-duty status under Title 10 of the United States Code.

The measure draws a clearer line between military personnel operating under state authority and those operating under federal authority. This distinction received heightened attention this past summer, when National Guard troops were deployed in Los Angeles in connection with protests over federal immigration raids, becoming the subject of litigation over federal authority and state control. This bill would make clear that out-of-state military forces acting under state status could not enter California for military duty or law enforcement functions without state approval, while personnel serving under Title 10 federal authority would remain outside the bill's scope.

SB 1354 reflects an approach that several other states have already taken. Texas, Kansas, Maryland, Oklahoma, Idaho, North Dakota, and Washington have enacted laws requiring gubernatorial approval before outside military forces may enter the state for military duty, and Oregon has considered similar legislation. In that sense, this bill could clarify California law in areas where questions of military status, command authority, and state consent may overlap.

At the same time, the bill leaves several implementation questions unresolved. It prohibits out-of-state military personnel from entering California to perform "military duty" or "law enforcement functions," but it does not define those terms. The bill also does not expressly address how the permission requirement would apply in contexts such as training, military schools, or interstate mutual aid deployments under EMAC. Because a violation would be punishable as a crime, the Legislature may also wish to consider whether the bill should specify how permission is to be granted, documented, and verified in practice.

POSITIONS

Sponsor: Author.

Support: California Public Defenders Association

Oppose: None

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