
HOUSE RESOLUTION

REQUESTING CONGRESS TO REPEAL OR AMEND THAT PORTION OF PUBLIC
LAW NO. 109-364 THAT ALLOWS THE PRESIDENT TO TAKE CONTROL
OF THE NATIONAL GUARD WITHOUT THE CONSENT OF THE GOVERNOR
AND TO DECLARE MARTIAL LAW.

1 WHEREAS, the Insurrection Act (10 U.S.C. §§331 - 335), a
2 set of laws that limits the President's ability to deploy troops
3 within the United States, and the Posse Comitatus Act (18 U.S.C.
4 §1385), historically have helped to enforce strict prohibitions
5 on military involvement in domestic law enforcement; and
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7 WHEREAS, the Posse Comitatus Act, originally enacted in
8 1878, provides that, "[w]hoever, except in cases and under
9 circumstances expressly authorized by the Constitution or Act of
10 Congress, willfully uses any part of the Army or Air Force as a
11 posse comitatus or otherwise to execute the laws shall be fined
12 under this title or imprisoned not more than two years, or
13 both"; and
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15 WHEREAS, the Posse Comitatus Act is the only federal
16 criminal statute that outlaws military operations directed
17 against the American people under the cover of "law enforcement"
18 and, as such, it has been the nation's best protection against
19 the power-hungry intentions of an unscrupulous and reckless
20 executive, an executive intent on using force to enforce its
21 will; and
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23 WHEREAS, Public Law No. 109-364, the "John Warner Defense
24 Authorization Act of 2007" (H.R. 5122), which was signed by the
25 President on October 17, 2006, allows the President to declare a
26 "public emergency" and station troops anywhere in America and
27 take control of state-based National Guard units without the
28 consent of the governor or local authorities, in order to
29 "suppress public disorder"; and
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31 WHEREAS, the President's actions in engineering the passage
32 and enactment of certain provisions of Public Law No. 109-364
33 represent a grave threat to posse comitatus and to American



1 democracy itself because it gives the President the power to
2 declare martial law; and
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4 BE IT RESOLVED by the House of Representatives of the
5 Twenty-fourth Legislature of the State of Hawaii, Regular
6 Session of 2007, that the United States Congress is urged to
7 repeal those portions of Public Law No. 109-364 that undermine
8 the Insurrection and Posse Comitatus Acts; and
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10 BE IT FURTHER RESOLVED that certified copies of this
11 Resolution be transmitted to the Speaker of the United States
12 House of Representatives, the Majority Leader of the United
13 States Senate, and the members of Hawaii's congressional
14 delegation.
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OFFERED BY: *R. A. Osei*

Cindy Evans
MAR 14 2007

