Congress recently amended the Insurrection Act, a federal law which allows the President to deploy federal troops within the United States, in the event that state authorities are unable to maintain the rule of law within their own borders.

During the Hurricane Katrina event of 2005, the White House reportedly considered invoking the Insurrection Act in order to send federal troops into New Orleans, but ultimately declined to do so. Louisiana governor Kathleen Blanco did not request such federal intervention. The original Insurrection Act required the President to seek approval from state legislatures or governors before deploying soldiers, except in cases where:

A localized breakdown of authority has made the enforcement of federal laws “impracticable”; or any insurrection, domestic violence, unlawful combination, or conspiracy “hinders the execution of the laws of that State … that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law.”

Recent revisions to the Insurrection Act have added new criteria that can trigger unilateral Presidential troop deployments, including:

“… natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident, or other condition in any State or possession of the United States …” that results in a breakdown of local law and order.

The Insurrection Act is an exception to the Posse Comitatus statute, which forbids the use of military assets in domestic law enforcement, except as allowed by the Constitution or an act of Congress. Our 2002 documentary “Urban Warrior” (https://www.youtube.com/watch?v=NQLK6AaH9g4) ..... 

…. examines the declining state of Posse Comitatus, and the growing interplay between military tactics, hardware, and operations, and domestic law enforcement.
Text of the changes made to the Insurrection Act by the Congress under HR 5122 is listed below:

SEC. 1076. USE OF THE ARMED FORCES IN MAJOR PUBLIC EMERGENCIES.

(a) Use of the Armed Forces Authorized-

(1) IN GENERAL- Section 333 of title 10, United States Code, is amended to read as follows:

`Sec. 333. Major public emergencies; interference with State and Federal law

`(a) Use of Armed Forces in Major Public Emergencies– (1) The President may employ the armed forces, including the National Guard in Federal service, to–

`(A) restore public order and enforce the laws of the United States when, as a result of a natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident, or other condition in any State or possession of the United States, the President determines that–
`(i) domestic violence has occurred to such an extent that the constituted authorities of the State or possession are incapable of maintaining public order; and

`(ii) such violence results in a condition described in paragraph (2); or

`(B) suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy if such insurrection, violation, combination, or conspiracy results in a condition described in paragraph (2).

`(2) A condition described in this paragraph is a condition that–

`(A) so hinders the execution of the laws of a State or possession, as applicable, and of the United States within that State or possession, that any
part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State or possession are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

`(B) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

`(3) In any situation covered by paragraph (1)(B), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

`(b) Notice to Congress- The President shall notify Congress of the determination to exercise the authority in subsection (a)(1)(A) as soon as practicable after the determination and every 14 days thereafter during the duration of the exercise of that authority.’.

(2) PROCLAMATION TO DISPERSE- Section 334 of such title is amended by inserting `or those obstructing the enforcement of the laws’ after `insurgents’.

(3) HEADING AMENDMENT- The heading of chapter 15 of such title is amended to read as follows:

`CHAPTER 15–ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER’.

(4) CLERICAL AMENDMENTS- (A) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part I of such subtitle, are each amended by striking the item relating to chapter 15 and inserting the following new item: □331’.

(B) The table of sections at the beginning of chapter 15 of such title is amended by striking the item relating to sections 333 and inserting the following new item:
333. Major public emergencies; interference with State and Federal law. (b) Provision of Supplies, Services, and Equipment-

(1) IN GENERAL- Chapter 152 of such title is amended by adding at the end the following new section: Sec. 2567. Supplies, services, and equipment: provision in major public emergencies

(a) Provision Authorized- In any situation in which the President determines to exercise the authority in section 333(a)(1)(A) of this title, the President may direct the Secretary of Defense to provide supplies, services, and equipment to persons affected by the situation.

(b) Covered Supplies, Services, and Equipment- The supplies, services, and equipment provided under this section may include food, water, utilities, bedding, transportation, tentage, search and rescue, medical care, minor repairs, the removal of debris, and other assistance necessary for the immediate preservation of life and property.

(c) Limitations- (1) Supplies, services, and equipment may be provided under this section—

(A) only to the extent that the constituted authorities of the State or possession concerned are unable to provide such supplies, services, and equipment, as the case may be; and

(B) only until such authorities, or other departments or agencies of the United States charged with the provision of such supplies, services, and equipment, are able to provide such supplies, services, and equipment.

(2) The Secretary may provide supplies, services, and equipment under this section only to the extent that the Secretary determines that doing so will not interfere with military preparedness or ongoing military operations or functions.

(d) Inapplicability of Certain Authorities- The provision of supplies, services, or equipment under this section shall not be subject to the
provisions of section 403(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(c)).’.

(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

`2567. Supplies, services, and equipment: provision in major public emergencies’.

(c) Conforming Amendment- Section 12304(c)(1) of such title is amended by striking `No unit’ and all that follows through `subsection (b),’ and inserting `Except to perform any of the functions authorized by chapter 15 or section 12406 of this title or by subsection (b), no unit or member of a reserve component may be ordered to active duty under this section’.