

104TH CONGRESS
1ST SESSION

S. 1335

To provide for the protection of the flag of the United States and free speech, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 19 (legislative day, OCTOBER 18), 1995

Mr. McCONNELL (for himself, Mr. BENNETT, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the protection of the flag of the United States and free speech, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Flag Protection and
5 Free Speech Act of 1995”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) the flag of the United States is a unique
9 symbol of national unity and represents the values
10 of liberty, justice, and equality that make this Na-

1 tion an example of freedom unmatched throughout
2 the world;

3 (2) the Bill of Rights is a guarantee of those
4 freedoms and should not be amended in a manner
5 that could be interpreted to restrict freedom, a
6 course that is regularly resorted to by authoritarian
7 governments which fear freedom and not by free and
8 democratic nations;

9 (3) abuse of the flag of the United States
10 causes more than pain and distress to the over-
11 whelming majority of the American people and may
12 amount to fighting words or a direct threat to the
13 physical and emotional well-being of individuals at
14 whom the threat is targeted; and

15 (4) destruction of the flag of the United States
16 can be intended to incite a violent response rather
17 than make a political statement and such conduct is
18 outside the protections afforded by the first amend-
19 ment to the United States Constitution.

20 (b) PURPOSE.—It is the purpose of this Act to pro-
21 vide the maximum protection against the use of the flag
22 of the United States to promote violence while respecting
23 the liberties that it symbolizes.

1 **SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES**
2 **AGAINST USE FOR PROMOTING VIOLENCE.**

3 (a) IN GENERAL.—Section 700 of title 18, United
4 States Code, is amended to read as follows:

5 **“§ 700. Incitement; damage or destruction of property**
6 **involving the flag of the United States**

7 “(a) ACTIONS PROMOTING VIOLENCE.—Any person
8 who destroys or damages a flag of the United States with
9 the primary purpose and intent to incite or produce immi-
10 nent violence or a breach of the peace, and in cir-
11 cumstances where the person knows it is reasonably likely
12 to produce imminent violence or a breach of the peace,
13 shall be fined not more than \$100,000 or imprisoned not
14 more than 1 year, or both.

15 “(b) DAMAGING A FLAG BELONGING TO THE
16 UNITED STATES.—Any person who steals or knowingly
17 converts to his or her use, or to the use of another, a flag
18 of the United States belonging to the United States and
19 intentionally destroys or damages that flag shall be fined
20 not more than \$250,000 or imprisoned not more than 2
21 years, or both.

22 “(c) DAMAGING A FLAG OF ANOTHER ON FEDERAL
23 LAND.—Any person who, within any lands reserved for
24 the use of the United States, or under the exclusive or
25 concurrent jurisdiction of the United States, steals or
26 knowingly converts to his or her use, or to the use of an-

1 other, a flag of the United States belonging to another
2 person, and intentionally destroys or damages that flag
3 shall be fined not more than \$250,000 or imprisoned not
4 more than 2 years, or both.

5 “(d) CONSTRUCTION.—Nothing in this section shall
6 be construed to indicate an intent on the part of Congress
7 to deprive any State, territory or possession of the United
8 States, or the Commonwealth of Puerto Rico of jurisdic-
9 tion over any offense over which it would have jurisdiction
10 in the absence of this section.

11 “(e) DEFINITION.—As used in this section, the term
12 ‘flag of the United States’ means any flag of the United
13 States, or any part thereof, made of any substance, in any
14 size, in a form that is commonly displayed as a flag and
15 would be taken to be a flag by the reasonable observer.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 33 of title 18, United States Code, is amended
18 by striking the item relating to section 700 and inserting
19 the following new item:

“700. Incitement; damage or destruction of property involving the flag of the
United States.”.

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