

HJR

30

ALASKA STATE LEGISLATURE

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House of Representatives
House District 24

Sponsor Statement

HJR 30

This resolution asks the Congress of the United States to present a constitutional amendment to the States authorizing Congress to prohibit the physical desecration of the American flag. The resolution supports two measures currently in Congress: House Joint Resolution 36, which passed the House on July 17, 2001 on a vote of 298 to 125; and Senate Joint Resolution 7.

Does the First Amendment give us the right to desecrate the American flag? Or is the flag a sacred symbol of our nation, itself a monument deserving protection by law? In 1989, with *Texas v. Johnson*, the U.S. Supreme Court overturned anti-flag desecration laws that 48 states had on the books. At that time, the Court held that flag burning was symbolic expression and must be afforded the complete protection of the First Amendment.

Dissenters to *Texas v. Johnson* recognized that the anti-desecration statutes protect the *use* of this particular symbol (the American flag), and in no way sought to restrict the ideas that flag desecraters convey. Chief Justice Rehnquist said, "This uniquely deep awe and respect for our flag felt by virtually all of us is bundled off under the rubric of 'designated symbols' that the First Amendment prohibits the government from establishing." The Chief Justice argued that by restricting the physical desecration of our flag, the government recognizes as fact, the profound regard for the American flag created in the hearts of Americans by 200 years of history.

The 1989 Supreme Court decision set in motion a grassroots campaign of unprecedented success. No other issue on Capitol Hill has the endorsement of 80% of the American people, the overwhelming majority of the US House and Senate and 100 percent of state legislatures. HJR30 asks the US Senate to yield to the will of the people and send the proposed flag amendment to the States for ratification.

"The flag is a national property, and the Nation may regulate those who would make, imitate, sell, possess, or use it. I would not question those statutes which proscribe mutilation, defacement, or burning of the flag which otherwise protect its physical integrity, without regard to whether such conduct might provoke violence..... There would seem to be little question about the power of Congress to forbid the mutilation of the Lincoln Memorial....The flag itself is a monument, subject to similar protection."

- Justice White

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 30
 (H) Publish Date: 1/22/02

Revision Date/Time (Note if correction): _____ Dept. Affected: HSTA for LAA
 Title: Relating to an amendment to the Constitution BRU: _____
of the United States prohibiting Component: _____
 Sponsor: deseccration of the Flag of the United States
 Requester: H(STA) Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This resolution has no fiscal impact on state spending.

Prepared by: Rynniva Moss Phone 465-3719

Representative John Coghili Date 1/22/02
 Committee Chair

Subject: Re: Re pending flag legislation

Date: Mon, 21 Jan 2002 17:13:58 -0900

From: "Bob Nelson" <bob58@alaska.com>

To: "Linda Sylvester" <Linda_Sylvester@legis.state.ak.us>

Representative Kott... putting personal thoughts and visions into words is never easy. I do all the easy things - I stand proudly when the anthem is played, I love to see the flag flying - especially over the past months... I like the red, white and blue lights for the holidays this year, and I like seeing the bumper stickers, pins, banners, etc stuck here and there. Some of the harder things are trying to keep the tears out of my eyes when I watch our flag draped over the casket of one of our fallen heroes and family members struggling to clutch it to their heart. I absolutely was thrilled during my second trip to New York when all the patrons in a restaurant stood on their feet and applauded as an off duty fire truck came up the street. The applause didn't quit until the customers knew the firemen could no longer hear them. What an honor! What does this all mean in reference to our flag -- it is sometimes the only visible sign of what is happening in the hearts of our citizens. The colors are brilliant, their message is simple - freedom for those who dare. It doesn't need a long desertation - but it does need tender, loving care for those of us who are living and enjoying the benefits of its ideals.

I've thought about the arguments and comments about the fact that we don't need to protect our flag as the very thing it stands for is the freedom of people to disagree. What is important, it is argued, is that the ideal of the flag remains. OK, I've heard that, and now I disagree with the disagree'ers. We all have many important symbols in our lives - religious, family, corporation, etc. The reason why isn't important - they are important because they are. That's the way I feel about the flag - it's one of my "heart" symbols - you can disagree with me, but don't attempt to destroy it.

Some words sent to me this very day:

Silent Praise

As I face the stately flagstaff,
To give my silent praise.
Old Glory seems to answer,
With every fold that waves.

These and those that follow,
Heroes not intent to be.
Preserve the peace for all,
And our country ever free.

I hear the ropes a' clinkin',
As the breeze stirs their calm.
The only sound to break the hush,
On this early morn.

The birth rays of the day,
Light her colors bright.
She represents our freedom,
And our country's might.

Many think the colors,
Are toys to be waved.
But many have given all,
And lie in forgotten graves.

GENERAL COLIN L. POWELL, USA (RET)

909 NORTH WASHINGTON STREET, SUITE 767
ALEXANDRIA, VIRGINIA 22314

MAY 18, 1999

The Honorable Patrick Leahy
United States Senate
Washington, DC 10510-4502

Dear Senator Leahy,

Thank you for your recent letter asking my views on the proposed flag protection amendment.

I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense.

Americans revere their flag as a symbol of the Nation. Indeed, it is because of that reverence that the amendment is under consideration. Few countries in the world would think of amending their Constitution for the purpose of protecting such a symbol.

We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration.

If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.

Finally, I shudder to think of the legal morass we will create trying to implement the body of law that will emerge from such an amendment.

If I were a member of Congress, I would not vote for the proposed amendment and would fully understand and respect the views of those who would. For or against, we all love our flag with equal devotion.

Sincerely,
General Colin Powell, USA (RET)

P.S. The attached 1989 article by a Vietnam POW gave me further inspiration for my position.

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[Prev](#) | [Next](#)[TITLE 4](#) > [CHAPTER 1](#) > Sec. 8.**Sec. 8. - Respect for flag**

No disrespect should be shown to the flag of the United States of America; the flag should not be dipped to any person or thing. Regimental colors, State flags, and organization or institutional flags are to be dipped as a mark of honor.

(a)

The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.

(b)

The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise.

(c)

The flag should never be carried flat or horizontally, but always aloft and free.

(d)

The flag should never be used as wearing apparel, bedding, or drapery. It should never be festooned, drawn back, nor up, in folds, but always allowed to fall free. Bunting of blue, white, and red, always arranged with the blue above, the white in the middle, and the red below, should be used for covering a speaker's desk, draping the front of the platform, and for decoration in general.

(e)

The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.

(f)

The flag should never be used as a covering for a ceiling.

(g)

The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any

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nature.

(h)

The flag should never be used as a receptacle for receiving, holding, carrying, or delivering anything.

(i)

The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.

(j)

No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore, the lapel flag pin being a replica, should be worn on the left lapel near the heart.

(k)

The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning

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Notes on Sec. 1.

SOURCE

July 30, 1947, ch. 389, 61 Stat. 642.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-252, Sec. 1, July 28, 2000, 114 Stat. 626, provided that: "This Act (enacting sections 116 to 126 of this title and provisions set out as a note under section 116 of this title) may be cited as the 'Mobile Telecommunications Sourcing Act'."

EXECUTIVE ORDER NO. 10798

Ex. Ord. No. 10798, Jan. 3, 1959, 24 F.R. 79, which prescribed proportions and sizes of flags until July 4, 1960, was revoked by section 33 of Ex. Ord. No. 10834, set out as a note under this section

EX. ORD. NO. 10834. PROPORTIONS AND SIZES OF FLAGS AND POSITION OF STARS

Ex. Ord. No. 10834, Aug. 21, 1959, 24 F.R. 6865, provided:

WHEREAS the State of Hawaii has this day been admitted into the Union; and

WHEREAS section 2 of title 4 of the United States Code provides as follows: "On the admission of a new State into the Union one star shall be added to the union of the flag; and such addition shall take effect on the fourth day of July then next succeeding such admission."; and

WHEREAS the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (see Short Title note under section 471 of Title 40, Public Buildings, Property, and Works) authorizes the President to prescribe policies and directives governing the procurement and utilization of property by executive agencies; and

WHEREAS the interests of the Government require that orderly and reasonable provision be made for various matters pertaining to the flag and that appropriate regulations governing the procurement and utilization of national flags and union jacks by executive agencies be prescribed:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and as Commander in Chief of the armed forces of the United States, and the Federal Property and Administrative Services Act of 1949, as amended (see Short Title note under section 471 of Title 40, Public Buildings, Property, and Works), it is hereby ordered as follows: PART I - DESIGN OF THE FLAG

Section 1. The flag of the United States shall have thirteen horizontal stripes—alternate red and white, and a union consisting of white stars on a field of blue.

Sec. 2. The positions of the stars in the union of the flag and in the union jack shall be as indicated on the attachment to this order, which is hereby made a part of this order.

Sec. 3. The dimensions of the constituent parts of the flag shall conform to the proportions set forth in the attachment referred to in section 2 of this order. PART II - REGULATIONS GOVERNING EXECUTIVE AGENCIES

Sec. 21. The following sizes of flags are authorized for executive agencies:

Feet Feet



Size Dimensions of Flag Hoist (width) Fly (length)

(1)	20.00	38.00
(2)	10.00	19.00
(3)	8.95	17.00
(4)	7.00	11.00
(5)	5.00	9.50
(6)	4.33	5.50
(7)	3.50	6.65
(8)	3.00	4.00
(9)	3.00	5.70
(10)	2.37	4.50
(11)	1.32	2.50

Sec. 22. Flags manufactured or purchased for the use of executive agencies:

(a)

Shall conform to the provisions of Part I of this order, except as may be otherwise authorized pursuant to the provisions of section 24, or except as otherwise authorized by the provisions of section 21, of this order.

(b)

Shall conform to the provisions of section 21 of this order, except as may be otherwise authorized pursuant to the provisions of section 24 of this order.

Sec. 23. The exterior dimensions of each union jack manufactured or purchased for executive agencies shall equal the respective exterior dimensions of the union of a flag of a size authorized by or pursuant to this order. The size of the union jack flown with the national flag shall be the same as the size of the union of that national flag.

Sec. 24.

(a)

The Secretary of Defense in respect of procurement for the Department of Defense (including military colors) and the Administrator of General Services in respect of procurement for executive agencies other than the Department of Defense may, for cause which the Secretary or the Administrator, as the case may be, deems sufficient, make necessary minor adjustments in one or more of the dimensions or proportionate dimensions prescribed by this order, or authorize proportions or sizes other than those prescribed by section 3 or section 21 of this order.

(b)

So far as practicable,

(1)

the actions of the Secretary of Defense under the provisions of section 24(a) of this order, as they relate to the various organizational elements of the Department of Defense, shall be coordinated, and

(2)

the Secretary and the Administrator shall mutually coordinate their actions under that section.

Sec. 25. Subject to such limited exceptions as the Secretary of Defense in respect of the Department of Defense, and the Administrator of General Services in respect of executive agencies other than the Department of Defense, may approve, all national flags and union jacks now in the possession of executive agencies, or hereafter acquired by executive agencies