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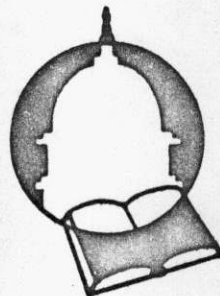
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THE FEDERAL FLAG CODE  
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November 27, 1968

**Washington D.C.**

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## I INTRODUCTION

Public Law 829, 77th Congress (56 Stat. 1074; 36 U.S.C. secs. 171-178) popularly known as "The Flag Code", is the only Federal law dealing with the display and use of the flag of the United States by civilians and civilian groups, and related matters. Section 1 of the Act states that it is a codification of existing rules and customs pertaining to the display and use of the flag of the United States "for the use of such civilian or civilian groups or organizations as may not be required to conform with regulations promulgated by one or more executive departments" of the Federal Government. The Act does not prescribe any penalties for noncompliance with such rules, nor does it include any other provision for enforcing compliance. It is intended to be, therefore, simply a guide to be followed on a purely voluntary basis by all United States civilians or civilian groups to the end that, so far as practicable, the manner in which the flag is to be displayed, and related proceedings conducted, shall be uniform.

The Act does not purport to cover all possible situations in which questions relating to the display and use of the flag might arise. Differing interpretations of its various provisions have been and will undoubtedly continue to be made. There is no federal agency or authority which is authorized to issue "official" rulings legally binding on civilians or civilian groups. The general test by which all such questions might fairly be resolved, however, is perhaps best

suggested in the opening clause of section 4 of the Act: "That no disrespect should be shown to the flag of the United States of America."

This paper includes the text of the Act, and of the Presidential Proclamation relating to the display of the flag at half-staff. It also undertakes to consider several of the more frequently recurring questions in this area.

It should be noted, also, that all of the fifty States have enacted their own statutory provisions relating to the United States flag. The Federal Flag Code does not supersede these state laws. All such laws prescribe criminal penalties for desecrating the flag, although they differ widely as to what acts constitute desecration and as to the penalties therefor. While most of the State statutes are directed primarily to abuses of this kind, some of them also include provisions relating to the manner, times and places for the display of the flag, (e.g., holidays, special occasions, public schools, polling places, etc.). As indicated above, the federal law does not provide any penalties for failure to comply with its provisions. However, Public Law 90-381 (82 Stat. 291; 18 U.S.C. sec. 700) makes the public mutilation, defacing, burning or trampling upon the United States flag with the intent to cast contempt upon it a Federal offense punishable by up to \$1000 fine and/or up to 1 year imprisonment [See text infra, p. 19].



## THE FLAG CODE

On June 22, 1942, the President of the United States approved a joint resolution of the Senate and House of Representatives codifying existing customs and rules governing the display and use of the Flag of the United States of America by civilians. Further amendments were approved on December 22 of that year, and the pledge of allegiance was amended in June, 1954. This code includes the provisions of the code adopted by the National Flag Conference at Washington on June 14, 1923, with certain amendments and additions.

56 Statutes-at-Large 1074:36 U. S. C. §§171-178.

[PUBLIC LAW 829 ---77TH CONGRESS]  
[CHAPTER 806 -- 2d SESSION]  
[H.J. RES. 359]

JOINT RESOLUTION

To amend Public Law Numbered 623, approved June 22, 1942, entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America."

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That Public Law Numbered 623, approved June 22, 1942, entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America," be, and the same is hereby amended to read as follows:

That the following codification of existing rules and customs pertaining to the display and use of the flag of the United States of America be, and it is hereby, established for the use of such civilians or civilian groups or organizations as may not be required to conform with regulations promulgated by one or more executive departments of the Government of the United States.

SEC. 2 (a) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, the flag may be displayed at night upon special occasions when it is desired to produce a patriotic effect.

(b) The flag should be hoisted briskly and lowered ceremoniously.

(c) The flag should not be displayed on days when the weather is inclement.

(d) The flag should be displayed on all days when the weather permits, especially on New Year's Day, January 1; Inauguration Day, January 20; Lincoln's Birthday, February 12; Washington's Birthday, February 22; Army Day, April 6; Easter Sunday (variable); Mother's Day, second Sunday in May; Memorial Day (half staff until noon), May 30; Flag Day, June 14; Independence Day, July 4; Labor Day, first Monday in September; Constitution Day, September 17; Columbus Day, October 12; Navy Day, October 28; Armistice Day, November 11; Thanksgiving Day, fourth Thursday in November; Christmas Day, December 25; such other days as may be proclaimed by the President of the United States; the birthdays of States (dates of admission); and on State holidays.<sup>2/</sup>

(e) The flag should be displayed daily, weather permitting, on or near the main administration building of every public institution.

(f) The flag should be displayed in or near every polling place on election days.

(g) The flag should be displayed during school days in or near every schoolhouse.

SEC. 3 That the flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag's own right, or if there is a line of other flags, in front of the center of that line.

(a) The flag should not be displayed on a float in a parade except from a staff, or as provided in subsection (i).

(b) The flag should not be draped over the hood, top, sides, or back of a vehicle or of a railroad train or a boat. When the flag is displayed on a motorcar, the staff shall be fixed firmly or clamped to the radiator cap.

(c) No other flag or pennant should be placed above or, if on the same level, to the right of the flag of the United States of America, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy.

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<sup>2/</sup> By resolution of the 82nd Congress. Constitution Day was designated Citizenship Day. By Proclamation 3399, dated March 18, 1961, of President John F. Kennedy, the 3rd Saturday of May, 1961, and the 3rd Saturday of May of each succeeding year, was designated Armed Forces Day.



No person shall display the flag of the United Nations or any other national or international flag, equal, above, or in a position of superior prominence or honor to, or in place, of, the flag of the United States at any place within the United States or any territory or possession thereof: Provided, That nothing in this section shall make unlawful the continuance of the practice heretofore followed of displaying the flag of the United Nations in a position of superior prominence or honor, and other national flags in positions of equal prominence or honor, with that of the flag of the United States at the headquarters of the United Nations.<sup>3/</sup>

(d) The flag of the United States of America, when it is displayed with another flag against a wall from crossed staffs, should be on the right, the flag's own right, and its staff should be in front of the other flag.

(e) The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed.

(f) When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the right of the flag of the United States.

(g) When flags of two or more nations are displayed they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

(h) When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff unless the flag is at half staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag should be hoisted out, union first, from the building.

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<sup>3/</sup> This paragraph was added by Public Law 107, 83rd Congress, 1st Session, approved July 9, 1953.

(i) When the flag is displayed otherwise than by being flown from a staff, it should be displayed flat, whether indoors or out, or so suspended that its folds fall as free as though the flag were staffed.

(j) When the flag is displayed over the middle of the street, it should be suspended vertically with the union to the north and south street.

(k) When used on a speaker's platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, if it is displayed in the chancel of a church, or on the speaker's platform in a public auditorium, the flag should occupy the position of honor and be placed at the clergyman's or speaker's right as he faces the congregation or audience. Any other flag so displayed in the chancel or on the platform should be placed at the clergyman's or speaker's left as he faces the congregation or audience. But when the flag is displayed from a staff in a church or public auditorium elsewhere than in the chancel or on the platform it shall be placed in the position of honor at the right of the congregation or audience as they face the chancel or platform. Any other flag so displayed should be placed on the left of the congregation or audience as they face the chancel or platform.

(l) The flag should form a distinctive feature of the ceremony of unveiling a statue or monument, but it should never be used as a covering for the statue or monument.

(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. By "half-staff" is meant lowering the flag to one-half the distance between the top and bottom of the staff. Crepe streamers may be affixed to spear heads or flagstaves in a parade only by order of the President of the United States.

(n) When the flag is used to cover a casket, it should be so placed that the union is at the head and over the left shoulder. The flag should not be lowered into the grave or allowed to touch the ground.

SEC. 4. That 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 save as a signal of dire distress.

(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 drapery of any sort whatsoever, never 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 a platform, and for decoration in general.

(e) The flag should never be fastened, displayed, used, or stored in such a manner as will 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 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; or used as any portion of a costume or athletic uniform. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.

(j) 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.

SEC. 5. That during the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in a review, all persons present should face the flag, stand at attention, and salute. Those present in uniform should render the military salute. When not in uniform, men should remove the headdress with the right hand

holding it at the left shoulder, the hand being over the heart. Men without hats should salute in the same manner. Aliens should stand at attention. Women should salute by placing the right hand over the heart. The salute to the flag in the moving column should be rendered at the moment the flag passes.

SEC. 6. That when the national anthem is played and the flag is not displayed, all present should stand and face toward the music. Those in uniform should salute at the first note of the anthem, retaining this position until the last note. All others should stand at attention, men removing the headdress. When the flag is displayed, all present should face the flag and salute.

SEC. 7. The following is designated as the pledge of allegiance to the flag: I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all." Such pledge should be rendered by standing with the right hand over the heart. However, civilians will always show full respect to the flag when the pledge is given by merely standing at attention, men removing the headdress. Persons in uniform shall render the military salute.<sup>4/</sup>

SEC. 8. Any rule or custom pertaining to the display of the flag of the United States of America, set forth herein, may be altered, modified, or repealed, or additional rules with respect thereto may be prescribed, by the Commander in Chief of the Army and Navy of the United States, whenever he deems it to be appropriate or desirable; and any such alteration or additional rule shall be set forth in a proclamation.

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<sup>4/</sup> As amended, to include "under God," by P.L. 396, 83rd Congress, approved June 14, 1954.



III DISPLAY OF THE FLAG 24 HOURS A DAY

There is no general prohibition in Federal law on flying the flag twenty-four hours a day. Section 2(a) of the Act states:

It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, the flag may be displayed at night upon special occasions when it is desired to produce a patriotic effect ... .

Although, as indicated, the Flag Code does not expressly and unqualifiedly disapprove of the flying of the flag twenty-four hours a day, there are four places in the United States where it is flown night and day by specific legal authority: At Fort McHenry National Monument in Baltimore by Presidential Proclamation (No. 2795) of July 2, 1948; at Flag House Square in Baltimore, Maryland, by authority of an Act of Congress approved March 26, 1954 (Public Law 31, 83rd Congress); at the United States Marine Corps Memorial (Iwo Jima) in Arlington, Virginia, by Presidential Proclamation (No. 3418) of June 12, 1961; and at Lexington, Massachusetts by Public Law 89-335, November 8, 1965. Committee reports accompanying these laws indicate that the granting by law of specific authority to fly the flag at these places was intended only as a form of official tribute to the significance of certain historical sites rather than as a statutory exception from the above-quoted section 2(a).

As a matter of custom, and without specific statutory recognition, the flag is flown at night at many other sites including the United States Capitol. In 1966, in a survey conducted by the Library of Congress, the following places reported that they display the United States flag for the twenty-four hour period:

1. Birthplace of Francis Scott Key, Terra Rubra Farm, Keyville, Maryland.
2. Castle of Death Valley Scotty, Death Valley, California.
3. The Cemetery, Deadwood, South Dakota.
4. Grave of Betsy Ross, Mount Moriah Cemetery, Philadelphia, Pennsylvania.
5. Grave of Francis Scott Key, Mount Olivet Cemetery, Frederick, Maryland.
6. Grave of Jennie Wade, the only civilian killed in Battle of Gettysburg, Gettysburg Evergreen Cemetery, Gettysburg, Pennsylvania.
7. Lafayette's Tomb, Paris, France (flown since Lafayette's death in 1834, including the time of the German occupation during World War II).
8. Mount Suribachi, Iwo Jima.<sup>4/</sup>
9. Municipal War Memorial, Worcester, Massachusetts.
10. Northwestern State Bank, Saint Paul, Minnesota.
11. Pennsylvania Hall, Gettysburg College, Gettysburg, Pennsylvania (commemorates the use of the hall as both a lookout and a hospital during the Battle of Gettysburg; the 34-star flag that is flown is a copy of the Union flag of the Civil War period).

<sup>4/</sup>In March, 1968, in response to a request from the Japanese Government, the United States flag was removed from Mount Suribachi in preparation for the return of Iwo Jima to Japan.



12. Riverdale Cemetery, Niagra Falls, New York.
13. Sunset Hill Cemetery, Jamestown, New York.
14. Taos, New Mexico (flown by custom since the flag was nailed to the flagpole during the Civil War to prevent southern sympathizers from tearing it down).
15. United States Capitol, east and west fronts, Washington, D. C. (since World War I).

Although, as above stated, there is no legal prohibition against the flying of the United States flag twenty-four hours a day, it is understood that various Departments of the Federal Government do not approve of the flying of the flag at night except upon specific patriotic occasions or at places having some special historical significance.

IV FLYING THE FLAG DURING INCLEMENT WEATHER

Section 2(c) of the Flag Code reads as follows:

The flag should not be displayed on days  
when the weather is inclement.

We know of no official ruling on this section. Apparently, however, it was designed to protect the flag from destruction from unfavorable weather conditions. With the advent of synthetic fabrics the objection to displaying the flag, whatever the weather, has lessened. In this connection, we are informally advised by the Institute of Heraldry of the Army Department that if a flag is made of such material as will enable it to withstand inclement weather, it is not considered disrespectful to display the flag even during prolonged periods of such weather.

Moreover, since Section 2(c) speaks in terms of "days" when the "weather is inclement", it apparently does not contemplate that on an otherwise fair day, the flag should be lowered during a presumably brief precipitation which might occur during the day.



## V FLYING THE FLAG AT HALF-STAFF

Section 3(m) of the Flag Code defines the term "half-staff" and prescribes the method to be followed for placing it at half-staff, but it does not state by whom or on what occasions it should thus be flown except that section 2(d) provides that the flag be displayed at half-staff on Memorial Day until noon.

President Eisenhower, by Proclamation No. 3044, dated March 1, 1954, (68 Stat. C. 32), which is still in effect, prescribed certain rules for the display of the flag at half-staff by Federal authorities on Federal buildings, grounds, etc., upon the death of a President, ex-President and certain other designated officials. It does not purport to apply, as a matter of law, to the display of the flag at half-staff by private individuals, State officials, or organizations; but as "a guide to the people of the Nation generally..." The text of the proclamation is reproduced on the following page.

The President on various occasions, by proclamation, orders the flying of the flag at half-staff for varying periods of time upon the death of certain persons; however, such orders apply, as a matter of law, only to Federal authorities and public buildings, although many private persons and organizations voluntarily follow such proclamations.

We know of no Federal restriction on the display of the flag at half-staff by private individuals or organizations or by State public officials.

PRESIDENTIAL PROCLAMATION 3044

Proclamation 3044, March 1, 1954

DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA  
AT HALF-STAFF UPON THE DEATH OF CERTAIN OFFICIALS AND  
FORMER OFFICIALS.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it is appropriate that the flag of the United States of America be flown at half-staff on Federal buildings, grounds, and facilities upon the death of principal officials and former officials of the Government of the United States and the Governors of the States, Territories, and possessions of the United States as a mark of respect to their memory; and

WHEREAS it is desirable that rules be prescribed for the uniform observance of this mark of respect by all executive departments and agencies of the Government, and as a guide to the people of the Nation generally on such occasions:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America and Commander in Chief of the armed Forces of the United States, do hereby prescribe and proclaim the following rules with respect to the display of the flag of the United States of America at half-staff upon the death of the officials hereinafter designated:

1. The flag of the United States shall be flown at half-staff on all buildings, grounds, and naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions for the period indicated upon the death of any of the following-designated officials or former officials of the United States:

(a) The President or a former President: for thirty days from the day of death.

The flag shall also be flown at half-staff for such period at all United States embassies, legations, and other facilities abroad, including all military facilities and naval vessels and stations.

(b) The Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives: for ten days from the day of death.



(c) An Associate Justice of the Supreme Court, a member of the Cabinet, a former Vice President, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force: From the day of death until interment.

2. The flag of the United States shall be flown at half-staff on all buildings, grounds, and naval vessels of the Federal Government in the metropolitan area of the District of Columbia on the day of death and on the following day upon the death of a United States Senator, Representative, Territorial Delegate, or the Resident Commissioner from the Commonwealth of Puerto Rico, and it shall also be flown at half-staff on all buildings, grounds and naval vessels of the Federal Government in the State, Congressional District, Territory, or Commonwealth of such Senator, Representative, Delegate, or Commissioner, respectively, from the day of death until interment.

3. The flag of the United States shall be flown at half-staff on all buildings and grounds of the Federal Government in a State, Territory, or possession of the United States upon the death of the Governor of such State, Territory, or possession from the day of death until interment.

4. In the event of the death of other officials, former officials, or foreign dignitaries, the flag of the United States shall be displayed at half-staff in accordance with such orders or instructions as may be issued by or at the direction of the President, or in accordance with recognized customs or practices not inconsistent with law.

5. The heads of the several departments and agencies of the Government may direct that the flag of the United States be flown at half-staff on buildings, grounds, or naval vessels under their jurisdiction on occasions other than those specified herein which they consider proper, and that suitable military honors be rendered as appropriate.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this first day of March in the year of our Lord nineteen hundred and fifty-four, and of [seal] the Independence of the United States of America the one hundred and seventy-eighth.

DWIGHT D. EISENHOWER

By the President:

Walter B. Smith

Acting Secretary of State

VII ORNAMENTS ON FLAG STAFFS

The Flag Code is silent as to ornaments for flag staffs. We know of no law or regulation which restricts the using of an ornament on the staff. However, we are advised by the Institute of Heraldry of the Army Department that the use of the eagle and globe on flag staffs by civilians and civilian organizations is frowned upon, since this emblem is generally reserved for the Presidential flag and colors.

VIII DESTRUCTION OF WORN FLAGS

Section 4(j) of the Flag Code reads as follows:

(j) 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.

The Act is silent as to any prescribed act or procedure to be followed in or in connection with the burning of a flag. It would seem that any procedure which is in good taste and shows no disrespect to the flag would be appropriate.



IX DISPLAY OF U.S. FLAG WITH FLAGS OF OTHER  
NATIONS OR STATES

Sections 3(c), 3(e) and 3(f), of the Flag Code, reproduced on pages 4 and 5 of this report, provide the rules relating to the position that the National Flag should occupy when displayed with other flags. The meaning of Section 3 can be summarized in one sentence: The Flag of the United States should always be displayed with utmost dignity and respect and in the position of highest honor. For this purpose, the Code lists several alternate ways in which the Flag may be displayed with other flags, which will preserve the honor to be accorded it.

Section 3(c) indicates that no flag other than a church flag (during church services at sea) should be displayed above the United States Flag. If all the flags are displayed at the same height, the United States Flag is to be given a place of superior prominence, to the right of the other flags. This section does not require the Federal Flag to be flown higher than any other flag so long as no flag is above it, but does require it to be flown to the right of all other flags if it is not above them. By international custom, flags of all nations are to be flown at the same height when displayed together; therefore, the part of section 3(c) dealing with the display of flags at the same height is designed to comply with the respect to be accorded all nations when the United States

flag is displayed with the flags of other nations. An exception is made for display of the United Nations flag at U.N. Headquarters. At that site, the United Nations flag may be displayed at a position of superior prominence.

Section 3(e) deals with the situation when the United States flag is displayed with the flags of States of the Union or municipalities and not with the flags of other nations. In this case, the Federal flag, which represents all States, should be flown above and at the center of the other flags.

Section 3(f) is in accord with section 3(e) but deals with the special situation when there is only one flag pole, but other State or municipal flags are to be displayed with the Federal flag. In this case, the Federal flag should be displayed above the other flags.



## X FEDERAL FLAG ANTI-DESECRATION LAW

In response to the widely-publicized burning of the United States flag during anti-Vietnam War demonstrations in several cities, the Ninetieth Congress passed H.R. 10480 to prohibit desecration of the flag, which was approved by President Johnson on July 5, 1968 (Public Law 90-381; 82 Stat. 291). The text of the law, which makes desecration of the flag a Federal offense punishable by fines of not more than \$1,000, or up to one year imprisonment, or both, follows:

Title 18 United States Code.

§700. Desecration of the flag of the United States;  
penalties

(a) Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(b) The term "flag of the United States" as used in this section, shall include any flag, standard, colors, ensign, or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of said flag, standard, colors, or ensign of the United States of America, or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, standards, colors, or ensign of the United States of America.

(c) Nothing in this section shall be construed as indicating an intent on the part of Congress to deprive any State, territory, possession, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

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