

SENATE BILL REPORT

HJM 4000

As Reported By Senate Committee On:
Law & Justice, February 15, 1995

Brief Description: Asking Congress to propose a constitutional amendment to prohibit the physical desecration of the flag.

Sponsors: Representatives Reams, Dyer, Talcott, L. Thomas, Schoesler, Brumsickle, Carlson, Casada, Chandler, B. Thomas, Cooke, Van Luven, Sehlin, Horn, Foreman, Cairnes, Buck, D. Schmidt, Scott, Skinner, Johnson, Thompson, Goldsmith, Backlund, Conway, Chappell, Basich, Smith, Honeyford, Hankins, Mulliken, McMorris, Fuhrman, Campbell, Sheldon, Huff, Silver, McMahan and Stevens.

Brief History:

Committee Activity: Law & Justice: 2/9/95, 2/15/95 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Hargrove, Haugen, Johnson, Long, McCaslin, Roach and Schow.

Minority Report: Do not pass.

Signed by Senator C. Anderson, Vice Chair.

Staff: Lidia Mori (786-7755)

Background: In 1989, the United States Supreme Court struck down the conviction of a protester for burning a flag in violation of a Texas law. The court held that the application of the Texas law violated the free speech guarantees of the First Amendment to the United States Constitution.

Congress responded by passing the Flag Protection Act of 1989 which made it a crime to knowingly mutilate, deface or burn a United States flag. In 1990, the Supreme Court held that such a law was unconstitutional on free speech grounds protected by the First Amendment to the United States Constitution. The court held that the government may not statutorily prohibit the expression of an idea simply because society finds the idea offensive or disagreeable.

Summary of Bill: Congress is requested to propose an amendment to the United States Constitution for ratification by the states specifying that Congress and the states have the power to prohibit the physical desecration of the United States flag.

Appropriation: None.

Fiscal Note: Not requested.

Testimony For: A majority of Americans would support this bill. The flag is a symbol that many Americans fought and died for. It is extremely painful for prisoners of war to see someone burn a flag, as it is to the families of those who have lost a loved one in the line of duty. The framers of the U.S. Constitution allowed for the possibility of amending the Constitution.

Testimony Against: The flag symbolizes many ideals, including freedom of expression. This bill would infringe on free expression and do damage to one of the ideals for which the flag stands.

Testified: Senator Bob Oke, prime sponsor; Doris Gross, American Legion (pro); Beau Bergeron, WDVA (pro); Jerry Sheehan, ACLU (con).