

By Mr. Locke, a petition (accompanied by bill, Senate, No. 2038) of David H. Locke, Dan Greenwood, Peter C. Webber, Robert C. Buell, Brian P. Lees, Argeo Paul Cellucci, Mary L. Padula, Edward P. Kirby and Henri S. Rauschenbach for legislation to protect the physical integrity of the United States and Massachusetts flags. Criminal Justice.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Nine.

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AN ACT PROTECTING THE PHYSICAL INTEGRITY OF THE UNITED STATES AND MASSACHUSETTS FLAGS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 264 of the General Laws is hereby  
2 amended by striking out section 5 and inserting in place thereof  
3 the following two sections: —

4 Section 5. Whoever, other than for the purpose of disposing  
5 of a worn flag, intentionally destroys, defaces, burns, mutilates,  
6 or otherwise impairs the physical integrity of any flag of the United  
7 States shall be fined not more than \$1,000 dollars or imprisoned  
8 for not more than one year, or both.

9 Section 5A. Whoever, other than for the purpose of disposing  
10 of a worn flag, destroys, defaces, burns, mutilates, or otherwise  
11 impairs the physical integrity of any flag of Massachusetts,  
12 whether that flag is public or private property, or whoever displays  
13 the flag of the United States or of Massachusetts or any  
14 representation thereof upon which are words, figures, advertise-  
15 ments, or designs, or whoever causes or permits such flag to be  
16 used in a parade as a receptacle for depositing or collecting money  
17 or any other article or thing, or whoever exposes to public view,  
18 manufactures, sells, exposes for sale, or to give away, or for use  
19 for any purpose, any receptacle of merchandise or articles upon  
20 which is attached, through a wrapping or otherwise, engraved or

21 printed in any manner, a representation of the United States flag,  
22 or whoever uses any representation of the arms or the great seal  
23 of the commonwealth for any advertising or commercial purpose,  
24 shall be punished by a fine of not less than one hundred dollars  
25 or by imprisonment for not more than one year, or both. Words  
26 figures, advertisements or designs attached to, or directly or  
27 indirectly connected with, such flag or any representation thereof  
28 in such manner that such flag or its representation is used to attract  
29 attention or to advertise such words, figures, advertisements, or  
30 designs attached to, or directly or indirectly connected with, such  
31 flag or any representation thereof in such manner that such flag  
32 or its representation is used to attract attention to or advertise  
33 such words, figures, advertisements or designs, shall for the  
34 purposes of this section be deemed to be upon such flag.  
35 Notwithstanding the foregoing, there may be attached to the staff  
36 bearing a flag of the United states or of Massachusetts belonging  
37 to an organization of veterans of the Civil War, to a camp of the  
38 United Spanish War Veterans, to a post or department of the  
39 department of the American Legion, or to a post or department  
40 of the Veterans of Foreign Wars of the United States, or to a post  
41 or department of the Jewish War Veterans of the United States,  
42 or to a camp or department of the Sons of the Union Veterans  
43 of the Civil War, or to a barracks or department of the Veterans  
44 of World War I of the U.S.A., or belonging to or in the service  
45 of the United States or the commonwealth, a streamer having  
46 inscribed thereon the names of battles and the name and number  
47 of the organizations to which the flag belongs. For the purposes  
48 of this section, a flag shall be deemed to continue to belong to  
49 any organization of veterans herein before specified, although  
50 such organization has ceased to exist, during such time as it  
51 remains in the lawful ownership or custody of any other of the  
52 aforesaid organizations or of the commonwealth or of any  
53 political subdivision thereof, or of any patriotic or historical  
54 society incorporated under the laws of the commonwealth or  
55 determined by the adjunct general to be a proper custodian  
56 thereof. For the purposes of this section the term "flag of the  
57 United States" shall mean any flag which is designated by Act or  
58 Resolution of the Congress of the United States as the national  
59 emblem, whether or not such designation is currently in force.

1 SECTION 2. The provisions of this act are severable, and if  
2 any provision hereof shall be held invalid in any circumstances,  
3 such invalidity shall not effect any other provisions or  
4 circumstances. This act shall be construed in all respects so as to  
5 meet any constitutional requirements. In carrying out the  
6 purposes and provisions of this act, all steps shall be taken which  
7 are necessary to meet constitutional requirements.

1 SECTION 3. This law shall take effect upon passage.

