A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Flag Protection Act of 2005”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Na-
tion an example of freedom unmatched throughout
the world;

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

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

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

(b) PURPOSE.—The purpose of this Act is to provide
the maximum protection against the use of the flag of the
United States to promote violence while respecting the lib-
erties that it symbolizes.
SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) In General.—Section 700 of title 18, United States Code, is amended to read as follows:

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

“(a) Definition of Flag of the United States.—In this section, the term ‘flag of the United States’ means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

“(b) Actions Promoting Violence.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and under circumstances in which the person knows that it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

“(c) Damaging a Flag Belonging to the United States.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States, and who intentionally destroys or damages that flag, shall be fined
not more than $250,000, imprisoned not more than 2
2 years, or both.
3  "(d) DAMAGING A FLAG OF ANOTHER ON FEDERAL
4 LAND.—Any person who, within any lands reserved for
5 the use of the United States, or under the exclusive or
6 concurrent jurisdiction of the United States, steals or
7 knowingly converts to his or her use, or to the use of an-
8 other, a flag of the United States belonging to another
9 person, and who intentionally destroys or damages that
10 flag, shall be fined not more than $250,000, imprisoned
11 not more than 2 years, or both.
12  "(e) CONSTRUCTION.—Nothing in this section shall
13 be construed to indicate an intent on the part of Congress
14 to deprive any State, territory, or possession of the United
15 States, or the Commonwealth of Puerto Rico of jurisdic-
16 tion over any offense over which it would have jurisdiction
17 in the absence of this section.”.
18  (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The chapter analysis for chapter 33 of title 18, United
20 States Code, is amended by striking the item relating to
21 section 700 and inserting the following:

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