

110TH CONGRESS  
1ST SESSION

# H. R. 3855

To amend title 10, United States Code, to prohibit the disposal by the Department of Defense of surplus military items designated as Identification Friend or Foe items, to amend title 18, United States Code, to make it a misdemeanor to possess or traffics in Identification Friend or Foe items, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2007

Mr. MEEK of Florida introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 10, United States Code, to prohibit the disposal by the Department of Defense of surplus military items designated as Identification Friend or Foe items, to amend title 18, United States Code, to make it a misdemeanor to possess or traffics in Identification Friend or Foe items, and for other purposes.

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

3 **SECTION 1. FINDINGS.**

4 Congress makes the following findings:

1           (1) When property of the Department of De-  
2       fense is determined to be surplus to the needs of the  
3       Department, a demilitarization code is assigned to  
4       the property, which identifies the level of required  
5       demilitarization of the property before it is disposed  
6       of by the Department.

7           (2) If surplus property is assigned a demili-  
8       tarization code of “D” or its equivalent (in this sec-  
9       tion referred to as a “Demil-D listed item”), the  
10      property is required to be completely demilitarized  
11      and are not to be sold to the public.

12          (3) The Department of Defense has recently  
13      implemented several enhancements in the process  
14      used by the Department for the disposal of surplus  
15      property to prevent the unauthorized release of  
16      Demil-D listed items.

17          (4) If a Demil-D listed item is inadvertently  
18      sold, or property originally assigned a demilitariza-  
19      tion code other than Demil-D is sold and the prop-  
20      erty’s demilitarization code is subsequently changed  
21      to a Demil-D listed item, the sales contractors used  
22      by the Department of Defense are required to at-  
23      tempt to retrieve the property from the purchaser.

24          (5) Buyers of surplus Department of Defense  
25      property are notified at the time of purchase that

1 the property must be returned if the demilitarization  
2 code is subsequently changed to a Demil-D listed  
3 item, but there is no enforcement capability to this  
4 obligation.

5 (6) Identification Friend or Foe equipment and  
6 accessories are used by the Armed Forces to main-  
7 tain the superior ability of members of the Armed  
8 Forces to operate under the cover of darkness and  
9 in inclement conditions, while providing for identi-  
10 fication of fellow members.

11 (7) Glo-patches and other Identification Friend  
12 or Foe equipment and accessories are Demil-D listed  
13 items, which requires the total destruction of the  
14 property and components by melting, cutting, tear-  
15 ing, scratching, crushing, breaking, punching, or  
16 neutralizing, so as to preclude restoration or repair  
17 to a usable condition.

18 (8) Under current regulations, Identification  
19 Friend or Foe equipment and accessories may not be  
20 exported outside of the United States without ex-  
21 press permission by the Department of Defense or  
22 the Department of State.

23 (9) However, between August and October of  
24 2006, 4,800 surplus combat uniforms bearing glo-  
25 tape patches were inadvertently sold despite a deter-

1 mination by the Department of Defense in July  
2 2006 that the patches had to be removed and de-  
3 stroyed before the uniforms could be sold.

4 (10) Subsequent investigation in June 2007 de-  
5 termined that Identification Friend or Foe equip-  
6 ment and accessories were easily obtained at retail-  
7 ers in several areas of the United States.

8 (11) On January 20, 2007, between nine and  
9 twelve Iraqi insurgents successfully masqueraded as  
10 members of the United States Armed Forces while  
11 dressed in United States military combat fatigues,  
12 and were able to kill one soldier and abduct four  
13 other soldiers, highlighting the dangers faced by  
14 members of the Armed Forces when the enemy is  
15 able to disguise itself as members of the United  
16 States Armed Forces.

17 **SEC. 2. PROHIBITION ON SALE OR DONATION BY THE DE-**  
18 **PARTMENT OF DEFENSE OF IDENTIFICATION**  
19 **FRIEND OR FOE EQUIPMENT AND ACCES-**  
20 **SORIES.**

21 (a) PROHIBITION.—Chapter 153 of title 10, United  
22 States Code, is amended by inserting after section 2572  
23 the following new section:

1 **“§ 2573. Prohibition on sale or donation of Identifica-**  
2 **tion Friend or Foe equipment and acces-**  
3 **sories**

4 “(a) PROHIBITION.—The Secretary of Defense may  
5 not authorize the sale, resale, or donation of equipment  
6 or accessories of the Department of Defense designated  
7 as Identification Friend or Foe equipment or accessories.

8 “(b) EXCEPTIONS.—The prohibition contained in  
9 subsection (a) does not apply to the following:

10 “(1) The sale of Identification Friend or Foe  
11 equipment or accessories by the Department of De-  
12 fense, including a nonappropriated fund instrumen-  
13 talities of the Department, to a member of the  
14 armed forces possessing valid military identification  
15 for the member’s personal use.

16 “(2) The sale or donation of Identification  
17 Friend or Foe equipment or accessories to a mu-  
18 seum or similar organization located in the United  
19 States that is involved in the preservation of equip-  
20 ment of the armed forces for historical purposes, ex-  
21 cept that no more than one item of each type of  
22 Identification Friend or Foe equipment or acces-  
23 sories may be sold or donated to any one such mu-  
24 seum or organization.

25 “(3) Such other sale or donation as the Sec-  
26 retary of Defense determines could not result in the

1 Identification Friend or Foe equipment or acces-  
2 sories being acquired by enemies of the United  
3 States.

4 “(c) NOTICE OF PROHIBITION OF SALE OF IFF  
5 EQUIPMENT OR ACCESSORIES.—The Secretary of Defense  
6 shall require the prohibition specified in this section to be  
7 prominently and immediately displayed on any media that  
8 provides for the private purchase of surplus military  
9 equipment.

10 “(d) IDENTIFICATION FRIEND OR FOE EQUIPMENT  
11 OR ACCESSORY DEFINED.—In this section, the term  
12 “Identification Friend or Foe equipment or accessory”  
13 means any system of infrared or reflective components de-  
14 signed and manufactured at the request of, and to the  
15 specifications of, the Department of Defense to be used  
16 for the identification of a person as a member of the  
17 armed forces in poor lighting conditions.”.

18 (b) CLERICAL AMENDMENT.—The table of sections  
19 at the beginning of such chapter is amended by inserting  
20 after the item relating to section 2572 the following new  
21 item:

“2573. Prohibition on sale or donation of Identification Friend or Foe equip-  
ment and accessories.”.

1 **SEC. 3. PROHIBITION ON UNAUTHORIZED POSSESSION OF**  
2 **IDENTIFICATION FRIEND OR FOE EQUIP-**  
3 **MENT AND ACCESSORIES.**

4 Section 701 of title 18, United States Code, is  
5 amended—

6 (1) by striking “Whoever” and inserting “(a)  
7 AGENCY BADGES, IDENTIFICATION CARDS, OR  
8 OTHER INSIGNIA.—Whoever”; and

9 (2) by adding at the end the following new sub-  
10 section:

11 “(b) **MILITARY IDENTIFICATION FRIEND OR FOE**  
12 **EQUIPMENT OR ACCESSORIES.**—Whoever manufactures,  
13 sells, or possesses any identification friend or foe equip-  
14 ment or accessories, or any colorable imitation thereof, ex-  
15 cept as authorized under regulations made pursuant to  
16 law, shall be fined under this title or imprisoned not more  
17 than six months, or both. In this subsection, the term  
18 “Identification Friend or Foe equipment or accessory”  
19 means any system of infrared or reflective components de-  
20 signed and manufactured at the request of, and to the  
21 specifications of, the Department of Defense to be used  
22 for the identification of a person as a member of the  
23 armed forces in poor lighting conditions.”.

1 **SEC. 4. EFFECTIVE DATE.**

2       The amendments made by this section shall take ef-  
3 fect 30 days after the date of the enactment of this Act.

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