Bibliography of Congressional Acts and Presidential Executive Orders and Proclamations Relating to General Use of the United States Flag

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Since its birth in the Continental Congress in 1777, the flag of the United States has been the subject of numerous acts of the Congress and President. On rare occasions, such as the flag desecration case of *United States v. Eichman*, those acts have been reviewed by the Supreme Court.

This bibliography attempts to identify, cite, and summarize the congressional acts and presidential executive orders and proclamations relating to the general use of the United States flag. Specific acts, such as annual presidential proclamations for Columbus Day, Flag Day, et cetera, are beyond the scope of this work, as are treaties and other international acts of the United States relating to the flag. The bibliography incorporates the August 1998 reorganization of the Flag Code and other flag-related laws in title 36 of the *United States Code*.

While some acts may have been omitted due to the vagaries of the indexing process in available legal references, every effort has been made to make this bibliography as accurate and complete as possible. Each item provides a full session-law citation so that scholars with access to a law library may find and study the primary source material at each step of its enactment. Whenever possible, a citation is given to the current text in the *United States Code*, i.e., (codified at 4 U.S.C. § 1), which is the most readily available source.

Because of the exclusive reliance on legal material, the citations follow the format of *The Bluebook: A Uniform System of Citation*, rather than *The Chicago Manual of Style*. A full explanation of the applicable Bluebook conventions is well beyond the scope of this work, but the following explanation of abbreviations should prove helpful:

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\begin{align*}
\text{x C.F.R. § y} & = \text{title x, Code of Federal Regulations, section y} \\
\text{ch. x} & = \text{chapter x} \\
\text{x Fed. Reg. y} & = \text{volume x, Federal Register, page y} \\
\text{Exec. Order No. x} & = \text{executive order number x} \\
\text{x Stat. y} & = \text{volume x, United States Statutes at Large, page y}
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This bibliography is merely a beginning point in the study of governmental usage of the United States flag. Vexillology is at heart an analytical science, and it is hoped that this reference work will assist future scholars in their studies and writings about the flag.

I. Description

A. Continental Congress

Resolution of June 14, 1777, reprinted in 8 LIBRARY OF CONGRESS, JOURNALS OF THE CONTINENTAL CONGRESS 1774-1789, at 464 (1907) (“Resolved, That the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field.”).

B. Congress

Act approved Jan. 13, 1794, ch. 1, 1 Stat. 341 (“That from and after the first day of May, Anno Domini, one thousand seven hundred and ninety-five, the flag of the United States, be fifteen stripes alternate red and white: that the union be fifteen stars, white in a blue field.”), implicitly repealed and reenacted by Act approved Apr. 4, 1818, ch. 34, § 1, 3 Stat. 415, 415 (“That from and after the fourth day of July next, the flag of the United States be thirteen horizontal stripes, alternate red and white; that the union be twenty stars, white, in a blue field.”), codified and repealed by Revised Statutes, §§ 1791, 5596, 18 Stat. pt. 1, at 1, 319 (codification), 1091 (repealer) (“The flag of the United States shall be thirteen horizontal stripes, alternate red and white; and the union of the flag shall be thirty-seven stars, white in a blue field.”), codified and repealed by Act approved July 30, 1947, ch. 389, sec. 1, § 1, sec. 2, 61 Stat. 641, 642 (codification), 645 (repealer) (codified at 4 U.S.C. § 1) (“The flag of the United States shall be thirteen horizontal stripes, alternate red and white; and the union of the flag shall be forty-eight stars, white in a blue field.”).

Act approved Apr. 4, 1818, ch. 34, § 2, 3 Stat. 415, 415 (“Sec. 2. And be it further enacted, That on the admission of every new state into the Union, one star be added to the union of the flag; and that such addition shall take effect on the fourth of July then next succeeding such admission.”), codified and repealed by Revised Statutes, §§ 1792, 5596, 18 Stat. pt. 1, at 1, 319 (codification), 1091 (repealer) (“On the admission of a new State into the Union one star shall be added to the union of
the flag; and such addition shall take effect on the fourth day of July then next succeed-
ing such admission.”), recodified and repealed by Act approved July 30, 1947, ch. 389, sec. 1, § 2, sec. 2, 61 Stat. 641, 642 (codification), 645 (repealer) (codified at 4 U.S.C. § 2) (“On the admission of a new State into the Union one star shall be added to the union of the flag; and such addition shall take effect on the fourth day of July then next succeeding such admission.”).

C. The President


II. Display

A. Flag Code


B. Conduct during playing of national anthem

C. Pledge of allegiance and manner of delivery


D. Display at specific sites

1. Flag House Square, Baltimore, Maryland


2. Fort McHenry National Monument and Historic Shrine

   Proclamation No. 2795, 3 C.F.R. 212 (1943-1948) (ordering display of flag at all times during day and night except when weather is inclement).

3. National cemeteries


4. National Memorial Arch at Valley Forge State Park, Pennsylvania

   Act approved July 4, 1975, Pub. L. No. 94-53, 89 Stat. 259 (permitting twenty-four hour flying of flag on grounds if flag is illuminated from sunset to sunrise).

5. Town Green at Lexington, Massachusetts

   Act approved Nov. 8, 1965, Pub. L. No. 89-335, 79 Stat. 1294 (permitting twenty-four hour flying of flag if flag is illuminated from sunset to sunrise).
6. United States customs ports of entry that are continually open


7. United States Marine Corps Memorial

Proclamation No. 3418, 3 C.F.R. 128 (1959-1963) (ordering display of flag at all times during day and night except when weather is inclement).

8. U.S.S. *Utah* at Pearl Harbor, Hawaii


9. Washington Monument


10. White House


E. Display on specific days

1. Thomas Jefferson’s Birthday (April 13)


2. Law Day, U.S.A. (May 1)

3. Loyalty Day (May 1)


4. Mother’s Day (second Sunday in May)


5. Peace Officers Memorial Day (May 15)


6. Police Week (week in which May 15 occurs)


7. Armed Forces Day (third Saturday of May)

8. National Maritime Day (May 22)

Act approved May 20, 1933, ch. 36, 48 Stat. 73, codified and repealed by Pub. L. No. 105-225, sec. 1, § 128(b), sec. 6(b), 112 Stat. 1253, 1260 (codification), 1499 (repealer) (codified at 36 U.S.C. § 128(b)) (requesting president to issue proclamation calling for display of flag on government buildings, homes, and other suitable places).

9. Flag Day (June 14)


10. National Flag Week (week in which June 14 occurs)


11. Father’s Day (third Sunday in June)


13. National Aviation Day (August 19)

14. Citizenship Day (September 17)


15. Gold Star Mother’s Day (last Sunday in September)


16. Columbus Day (second Monday in October)


17. National Pearl Harbor Remembrance Day (December 7)


F. Implantation on moon and planets


G. Mandatory display on uniforms of United States Park Police, Secret Service Uniformed Division, and Capitol Police; and uniforms of District of Columbia Metropolitan Police

H. Labels, packages, cartons, cases, or other containers for U.S. products intended as relief aid


III. Prohibited uses

A. Flag desecration

1. District of Columbia


Any person who, within the District of Columbia, in any manner, for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing, or any advertisement of any nature upon any flag, standard, colors, or ensign of the United States of America; or shall expose or cause to be exposed to public view any such flag, standard, colors, or ensign upon which shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed any word, figure, mark, picture, design, or drawing, or any advertisement of any nature; or who, within the District of Columbia, shall manufacture, sell, expose for sale, or to public view, or give away or have in possession for sale, or to be given away or for use for any purpose, any article or substance being an article of merchandise, or a receptacle for merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached, or otherwise placed a representation of any such flag, standard, colors, or ensign, to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding $100 or by imprisonment for not more than thirty days, or both, in the discretion of the court. The words “flag, standard, colors, or ensign”, as used herein, shall include any flag, standard, colors, or ensign, or any picture or representation of either, or 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 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, colors, standard or ensign of the United States of America.

2. National

Act approved July 5, 1968, Pub. L. No. 90-381, § 1, 82 Stat. 291, 291, amended by Flag Protection Act of 1989, Pub. L. No. 101-131, 103 Stat. 777 (codified at 18 U.S.C. § 700) (“(1) Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both. (2) This subsection does not prohibit any conduct consisting of the disposal of a flag when it has become worn or soiled.”), declared unconstitutional as applied by United States v. Eichman, 496 U.S. 310 (1990).

B. 1918 Espionage act (repealed)

Act approved May 16, 1918, ch. 75, sec. 1, § 3, 40 Stat. 553, 553, repealed by Act approved Mar. 3, 1921, ch. 136, 41 Stat. 1359:

Whoever, when the United States is at war, . . . shall willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States, or any language intended to bring the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contemptuously, or disrepute, or shall willfully utter, print, write, or publish any language intended to incite, provoke, or encourage resistance to the United States, or to promote the cause of its enemies, or shall willfully display the flag of any foreign enemy, . . . and whoever shall willfully advocate, teach, defend, or suggest the doing of any of the acts or things in this section enumerated, . . . shall be punished by a fine of not more than $10,000 or imprisonment for not more than twenty years, or both: Provided, That any employee or official of the United States Government who commits any disloyal act or utters any unpatriotic or disloyal language, or who, in an abusive and violent manner criticizes the Army or Navy or the flag of the United States shall be at once dismissed from the service.

C. Use by foreign vessel

D. Federal trademark act


IV. Burial flags

A. Members of the Armed Forces, et cetera


§ 1482. Expenses incident to death
(a) Incident to the recovery, care, and disposition of the remains of any decedent covered by section 1481 of this title [see below], the Secretary concerned [Secretary of Army, Navy, Air Force, or Transportation] may pay the necessary expenses of the following:

. . . .

(10) Presentation of a flag of the United States to the person designated to direct disposition of the remains [see subsection (c)], except in the case of a military prisoner who dies while in the custody of the Secretary and while under a sentence that includes a discharge.
(11) Presentation of a flag of equal size presented under paragraph (10) to the parents or parent, if the person to be presented a flag under paragraph (10) is other than the parent of the decedent. For the purpose of this paragraph, the term "parent" includes a natural parent, a stepparent, a parent by adoption or a person who for a period of not less than one year before the death of the decedent stood in loco parentis to him, and preference under this paragraph shall be given to the persons who exercised a parental relationship at the time of, or most nearly before, the death of the decedent.

(c) Only the following persons may be designated to direct disposition of the remains of a decedent covered by this chapter [10 U.S.C. §§ 1475-1490]:

(1) The surviving spouse of the decedent.
(2) Blood relatives of the decedent.
(3) Adoptive relatives of the decedent.
(4) If no person covered by clauses (1)-(3) can be found, a person standing in loco parentis to the decedent.

(e) When the remains of a decedent covered by section 1481 of this title, whose death occurs after January 1, 1961, are determined to be nonrecoverable, the person who would have been designated under subsection (c) to direct disposition of the remains if they had been recovered may be—

(1) presented with a flag of the United States; however, if the person designated by subsection (c) is other than a parent of the deceased member, a flag of equal size may also be presented to the parents . . . .

(f) The Secretary concerned [Secretary of Army, Navy, Air Force, or Transportation] may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Reserve of an armed force under his jurisdiction who dies under honorable circumstances as determined by the Secretary and who is not covered by section 1481 of this title if, at the time of such member’s death, he—

(1) was a member of the Ready Reserve; or
(2) had performed at least twenty years of service as computed under section 12732 of this title and was not entitled to retirement pay under section 12731 of this title.

§ 1481. Recovery, care, and disposition of remains: decedents covered

(a) The Secretary concerned [Secretary of Army, Navy, Air Force, or Transportation] may provide for the recovery, care, and disposition of the remains of the following persons:

(1) Any Regular of an armed force, or member of an armed force without component, under his jurisdiction who dies while on active duty.

(2) Any member of a reserve component of an armed force who dies while—

(A) on active duty;

(B) performing inactive-duty training;

(C) performing authorized travel directly to or from active duty or inactive-duty training;

(D) remaining overnight immediately before the commencement of inactive-duty training, or remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member’s residence; or

(E) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training.

(3) [deleted]

(4) Any member of, or applicant for membership in, a reserve officers’ training corps who dies while (A) attending a training camp, (B) on an authorized practice cruise, (C) performing authorized travel to or from such a camp or cruise, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while attending such a camp, while on such a cruise, or while performing that travel.

(5) Any accepted applicant for enlistment in an armed force under his jurisdiction.

(6) Any person who has been discharged from an enlistment in an armed force under his jurisdiction while a patient in a United States hospital, and who continues to be such a patient until the date of his death.

(7) Any retired member of an armed force under his jurisdiction who becomes a patient in a United States hospital while he is on active duty for a period of more than 30 days, and who continues to be such a patient until the date of his death.
(8) Any military prisoner who dies while in his custody.
(9) . . .
(b) This section applies to each person covered by subsection (a)(1)-(7) even though he may have been temporarily absent from active duty, with or without leave, at the time of his death, unless he had been dropped from the rolls of his own organization before his death.
(c) . . .

B. Civilian employees serving with the Armed Forces


§ 1482a. Expenses incident to death: civilian employees serving with an armed force
(a) Payment of expenses. The Secretary concerned [Secretary of Army, Navy, Air Force, or Transportation] may pay the expenses incident to the death of a civilian employee who dies of injuries incurred in connection with the employee’s service with an armed force in a contingency operation, or who dies of injuries incurred in connection with a terrorist incident occurring during the employee’s service with an armed force, as follows:
(1) . . .
(2) Presentation of a flag of the United States to the next of kin of the employee.
(3) Presentation of a flag of equal size presented under paragraph (2) to the parents or parent of the employee, if the person to be presented a flag under paragraph (2) is other than the parent of the employee.
(b) Regulations. The Secretary of Defense shall prescribe regulations to implement this section. The Secretary of Transportation shall prescribe regulations to implement this section with regard to civilian employees of the Department of Transportation. Regulations under this subsection shall be uniform to the extent possible and shall provide for the Secretary’s consideration of the conditions and circumstances surrounding the death of an employee and the nature of the employee’s service with the armed forces.
(c) Definitions. In this section:
(1) The term “civilian employee” means a person employed by the Federal Government, including a person entitled to basic pay in accordance with the General Schedule provided in section 5332 of title 5 or a similar basic pay schedule of the Federal Government.
(2) The term “contingency operation” includes humanitarian operations, peacekeeping operations, and similar operations.

(3) The term “parent” has the meaning given such term in section 1482(a)(11) of this title.

(4) The term “Secretary concerned” includes the Secretary of Defense with respect to employees of the Department of Defense who are not employees of a military department.

C. Veterans and persons buried in a national cemetery


§ 2301. Flags

(a) The Secretary [of Veterans Affairs] shall furnish a flag to drape the casket of each—

(1) deceased veteran who—

(A) was a veteran of any war, or of service after January 31, 1955;

(B) had served at least one enlistment; or

(C) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in the line of duty; and

(2) deceased individual who at the time of death was entitled to retired pay under chapter [1223] of title 10 [relating to retired pay for nonregular service] or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.
(b) After the burial of the veteran the flag so furnished shall be given to the veteran’s next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

. . . .

(d) In the case of any person who died while in the active military, naval, or air service after May 27, 1941, the Secretary [of Veterans Affairs] shall furnish a flag to the next of kin, or to such other person as the Secretary considers most appropriate, if such next of kin or other person is not otherwise entitled to receive a flag under this section or under section 1482(a) of title 10.

(e) The Secretary [of Veterans Affairs] shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 2402(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Secretary considers appropriate.


D. Merchant Marine

Merchant Marine Decorations and Medals Act, Pub. L. No. 100-324, § 6, 102 Stat. 576, 577 (codified at 46 app. U.S.C. § 2005) (“Except as authorized under other law, the Secretary of Transportation may issue at no cost a flag of the United States . . . to the family or personal representative of a deceased individual, who served in the United States merchant marine in support of the Armed Forces of the United States or its allies in periods of war or national emergency.”).

V. Federally chartered corporations

A. Catholic War Veterans of the United States of America, Inc.

B. Daughters of Union Veterans of the Civil War 1861-1865


C. Jewish War Veterans of the United States of America, Inc.


D. Ladies of the Grand Army of the Republic


E. National Society, Daughters of the American Colonists


F. National Woman’s Relief Corps, Auxiliary to the Grand Army of the Republic


G. Pearl Harbor Survivors Association

H. Sons of Union Veterans of the Civil War