

119TH CONGRESS
1ST SESSION

S. _____

To enhance penalties for the use of incendiary devices, including burning the flag of the United States, in the commission of Federal offenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To enhance penalties for the use of incendiary devices, including burning the flag of the United States, in the commission of Federal offenses, 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. SHORT TITLE.**

4 This Act may be cited as the “Enhanced Penalties
5 for Criminal Flag Burners Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The unauthorized use of incendiary devices
9 and open flames during commission of Federal of-

1 fenses poses a significant threat to public safety and
2 Federal property.

3 (2) The desecration or destruction of United
4 States symbols, including flags, in connection with
5 Federal crimes or attempts to intimidate public ac-
6 tors amplifies the danger of the underlying crime to
7 the public and to property.

8 (3) The burning of the flag of the United
9 States in furtherance of committing a Federal crime
10 reflects an intent to provoke civic unrest, intimidate
11 officials, or signal violent disruption and is an aggra-
12 vating factor in the commission of a criminal act.

13 (b) PURPOSE.—The purpose of this Act is to enhance
14 penalties for the use of incendiary devices, including burn-
15 ing the flag of the United States, in the commission of
16 Federal offenses.

17 **SEC. 3. ENHANCED PENALTIES FOR USE OF OPEN FLAMES**
18 **OR INCENDIARY DEVICES DURING COMMIS-**
19 **SION OF FEDERAL OFFENSES.**

20 (a) IN GENERAL.—Chapter 1 of title 18, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

1 **“§ 28. Use of open flame or incendiary device during**
2 **commission of Federal offense involving**
3 **property damage or public endangerment**

4 “(a) DEFINITION.—For purposes of this section, the
5 term ‘incendiary device’ includes any flammable object,
6 accelerant, fire-starting mechanism, or other apparatus in-
7 tended to ignite fire, whether improvised or commercially
8 manufactured.

9 “(b) ENHANCED PENALTY.—Whoever, in the course
10 of committing a Federal offense involving property dam-
11 age, obstruction of government operations, or public
12 endangerment, knowingly uses or causes the use of an
13 open flame or incendiary device, including burning the flag
14 of the United States, shall be subject to an enhanced term
15 of imprisonment of not less than 1 year, in addition to
16 any other penalty authorized by law.

17 “(c) RULE OF CONSTRUCTION.—This section shall
18 not apply to conduct protected under the First Amend-
19 ment to the Constitution of the United States, including
20 expressive symbolic conduct not involving criminal acts or
21 threats to public safety.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 1 of title 18, United States Code, is amended
24 by adding at the end the following:

“28. Use of open flame or incendiary device during commission of Federal of-
fense involving property damage or public endangerment.”.