

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1162

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB1162**

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/15/2009

Recorder Job Number: 7092

Committee Clerk Signature

Hathy Rodin

Minutes:

Chairman Grande: This is HB1162, introduced by Representatives Clark, Thoreson, Amerman, Senators Flakoll, Cook, Dever.

Rep. Donald Clark: Rep. Clark provided a four-page testimony, (**see attachment #1**).

Rep Dahl: Are we talking about just a flag you would fly on a flagpole or are we talking about the little ones that you can buy?

Rep. Clark: There is no size limitation on this bill. It is kind of open for interpretation.

Rep. Froseth: I had the same question. Would this include such products as lapel pins, sticker flags for cars? Does this cover them all?

Rep. Clark: In regards to his tie, I think that is a decoration, not a flag. So I would say it doesn't apply.

Rep. Froseth: Is there an official definition of what a flag is?

Rep. Clark: In this bill there is no definition of what a flag is. If the committee would like to add one, I think that would be entirely appropriate. It might be difficult though.

Rep. Wolf: Would this bill cover what you order on the internet, for example from Oriental Trading Company? Some of these bulk places that you can order trinkets.

Rep. Clark: This bill is about flags being sold in ND. I don't know about the origin of the company. If there was one in Moorhead that wanted to sell a flag in ND, this bill would apply to them. You will notice there is no penalty in this bill. There isn't any enforcement action.

Chairman Grande: Thank you.

Senator Dick Dever, Dist. 32: I would like to offer my support for this bill. I think this is an important bill even though it may have problems with the enforcement and the number of ways people can buy flags. The discussion needs to be kept simple. This bill states that it is the policy of ND that flags sold in ND are produced in the USA.

Rep. Dahl: Would you extend that logic if we were to say a ND flag that is sold in ND should be manufactured in ND?

Sen. Dever: I think it would be reasonable to say it should be manufactured in America. I posed your question to Senator Flakoll and he said we want to keep the bill as simple as possible.

Rep. Amerman: I would like to thank Rep. Clark for seeking me when the bill came along. I told him it was a good bill and I would be happy to sign on. I would like to lend my support to HB1162 and look for a favorable outcome.

Rep. Thoreson: I also ask for your support on HB1162. I believe in fair trade, but I also believe in American-made. I try when I can to buy products that are made in the U.S. and I do pledge allegiance to this flag each day we are in the chamber and I try to do it at home too. I hope for a favorable consideration of this bill.

Wallace Bolte: I'm here in favor of HB1162. I have the honor of being in charge of an honor guard for 20 some years and I've participated in over 1,700 military funerals and I've presented well over 1,000 (inaudible). It would be an honor to know that the flags are American made. The flags stand for freedom and I support the bill. Thank you.

Rep. Nathe: Being in the funeral service, Wally and I work together quite often. Just to let you know those flags are all American made.

Chairman Grande: Does anyone else wish to testify in favor of this bill?

John Risch, United Transportation: I am representing more than 1,000 patriotic, God-fearing North Dakotans union workers. The labor movement has long-supported the idea of supporting or encouraging made in the USA and union-made so from that standpoint I am very much in favor of this idea. The other standpoint is most of these flags are made in China or a country that officially still communist and I would certainly rather see them made in the U.S. union workers. Union workers are a label that not only in the U.S. probably pay a good fair wage as well. We support that sort of amendment too. Include union made.

Dave L. Kemnitz, ND AFL CIO Chairman: I am in support of this bill and I want to commend the sponsors for stepping forward. The flag or any other emblem, symbol or product should be, if we can help it should be American made and union made. I'm humbled to know Rep. Amerman very well, not only as a union man but as a brother in our organization. But he spent a year in Vietnam protecting and defending this flag. 28 days in the bush, 3 days in the base for a whole year. The radio man was a target of every sniper in Vietnam, the enemy. That man gives me a special privilege and honor to support him and all veterans. I believe in the statutes of the U.S. there is a description of what the U. S. flag is and should be. In Jamestown, ND there is a little outfit I'm familiar with (Molsof) is a product manager of "Order American" And at www.orderamerican.com you can go there and you can ask them for any item that you wish to purchase that is American made or union made and they will look for it for you.

Senator Tim Flakoll, District 44 in Fargo: Senator Flakoll provided a one-page written testimony. **(See attachment #2)**. I did bring a couple of things. I have a flag that is made in China and it has 44 stars and 11 stripes on it. This one was made in Malaysia, so all the stars

are tied together by a stitch. This little one is made in China and has 14 stripes on it. So these are examples of why we need our flags made in America.

Chairman Grande: Any questions from the committee? Anyone else in favor of 1162? Against? Neutral? Closing the hearing on HB1162.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1162

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/15/2009

Recorder Job Number: 7096

Committee Clerk Signature

Sathy Roden

Minutes:

Chairman Grande: We have HB1162 in front of us.

Rep. Winrich: I make a motion we do pass.

Rep. Wolf: I second.

Chairman Grande: Is there any discussion?

Rep. Froseth: I noticed on the handouts by Rep. Clark that Minnesota passed a bill in February 2003 and they included novelty items containing the flag unless the flag or item is manufactured in the United States. They went further than just the flag itself. I don't know if that is something we should make as an amendment to the bill. It is kind of a disgrace when items have the flag depicted wrong (i.e. too many stars). It is a disgrace to our nation's flag, so maybe we should restrict the novelty items too with them being manufactured in the U.S.

Rep. Dahl: Thank you. I can understand what you are saying Rep. Froseth but Rep. Clark said there is no enforcement clause in this bill and I'm always a little leery about passing laws we don't intend to enforce. So to expand this further, I don't know that I'm that comfortable to expand this to include novelty items.

Chairman Grande: Any other discussion?

Rep. Froseth: I have no problem with that I just thought I would open it for discussion to see if we need to extend this further at this point.

Chairman Grande: I agree. I see where you are going on that. My concern comes with the massive amount of imports and how do you deal with all of that. I don't know where you would even begin. That comes all the way to mean that that flag he's wearing on his tie. We're going to have someone checking that at the border to make sure it has the right number of stripes and stars? There are many depictions of different types of flags from different eras so, it is kind of hard to get into each and every aspect of that but I definitely appreciate the thought. I don't like to see flags come out incorrectly. But then I think if we went back to intent, it was never the intention to wear the flag on the tie like that. Some would say that that is extremely improper. Some would say it is improper for us to have a sticker flag on our cars. So I don't know how far we want to go into that general discussion.

Rep. Amerman: Thank you. I tend to agree. I think Rep. Clark mentioned to keep it simple and this is the first step. And I agree also with Rep. Froseth, I think he brings up a good point. But I like the way it is here and if this creates some good interest and patriotism, then maybe there will be some school children next session that will bring the bill forward.

Chairman Grande: Any other discussion? We have a do pass motion in front of us on HB1162 and I'll ask the clerk to call the roll.

The roll call vote was taken: **Yea: 12** **Nay: 0** **Absent: 1**

Representative Amerman will carry the bill.

Date: 1-15-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1162

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Winnich Seconded By Wolf

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper					
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Amerman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 15, 2009 4:20 p.m.

Module No: HR-08-0404
Carrier: Amerman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1162: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1162 was placed on the Eleventh order on the calendar.

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1162

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1162

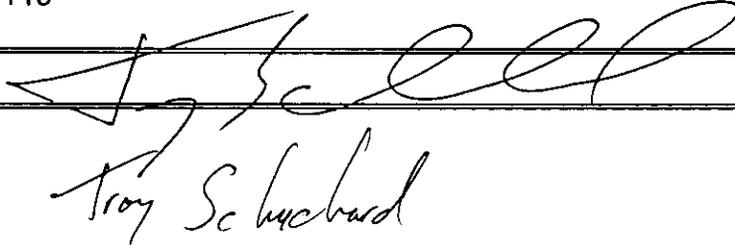
Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Hearing Date: March 17, 2009

Recorder Job Number: 11119

Committee Clerk Signature



Troy Schuchard

Minutes:

Chairman Klein: Opened hearing on HB 1162, all members present.

Donald Clark: Representative District 44 introduced and testified in support of HB 1162. (See attachment #1)

Chairman Klein: What is the penalty?

Donald Clark: There is no penalty.

Chairman Klein: So the intent is to let consumers know that this is how we intend to do business?

Donald Clark: That is correct.

Bill Amerman: Representative District 26 testified in support of HB 1162. I support this bill as a veteran.

Wallace Login: Testified in support of HB 1162. Presenting the flag of our country to the widow/widower of a fallen soldier should be made in America.

Tim Flakoll: Senator District 44 testified in support of HB 1162. (See attachment #2 & #4)

Senator Horne: If this bill became law, would it be illegal to sell these items as well?

Tim Flakoll: Yes, because they were manufactured outside of America.

Senator Horne: it wouldn't be just full-size flags, it would be anything that resembles a flag or is a flag no matter the size?

Tim Flakoll: Yes, that would be the intent.

Senator Potter: The intent is to cover all flags, but does it include lapel pin flags?

Tim Flakoll: I believe this would include lapel flag pins.

Senator Potter: how about the internet?

Tim Flakoll: This would not cover the internet unless the distributor you are purchasing the flag from is domiciled in North Dakota.

Senator Andrist: I am concerned about what falls under the definition of a flag?

Tim Flakoll: I am not sure that a flag card would count.

Senator Nodland: I think it is imperative that we purchase our flags in America.

Senator Horne: This really isn't going to guarantee anything. A funeral home can order a carload of flags off the internet and drape them over the caskets and this wouldn't cover that because they were not sold in North Dakota.

Tim Flakoll: A family could supply their own flag, for whatever personal reason, and this would have no ripple effect to that.

Chairman Klein: I think it is important to send the message that the flags be made in America.

Senator Potter: Should we also make it illegal to purchase a flag that is not made in America? Would that be constitutional?

Tim Flakoll: Some that testify after me can better address that.

Senator Potter: Did we ever define what a flag is?

Tim Flakoll: I think the flag is a symbol and not the cloth or clothing or piece of material. I think there are greater penalties implied by this bill. In some cases sending somebody to jail is the easy way out.

John Jacobson: Testified in support of HB 1162 and shared the importance of the flag to him. Explained the "Healing Field", and stated 3000 flags placed at the Capital Mall are made in China. These are cheap replicas and \$15 a piece. A dealer in town stated he cannot touch that price.

Kevin Herman: Testified in support of HB 1162. When I come to the Capital and see a flag, I expect it to be made in America, I believe it is time we start promoting North Dakota products in North Dakota. You can buy a cheap flag, but what does it stand for? It is about standing up for the United States of America. Things that people feel passionate about are going to cost money, it is about patriotism.

Sherry Neas: Director Of OMB Central Services Division testified in a neutral position on HB 1162. (See attachment #3) I brought this to your attention so you can make an informed decision regarding this legislation.

Chairman Klein: Closed the hearing on HB 1162.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1162

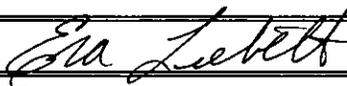
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 18, 2009

Recorder Job Number: 11216

Committee Clerk Signature



Minutes:

Senator Potter: I have an amendment defining what the flag is and the second amendment has to do with making it illegal for the state of North Dakota, political subdivisions and schools to purchase flags not made in the United States. That is something we can control without controlling every cross sector transaction. I don't want to see North Dakota schools flying flags made in another country. I did ask Jennifer Clark to draft that amendment.

Senator Behm: Motioned a do pass on amendment 90041.0101.

Senator Potter: Seconded. Passed, 7-0.

Discussion continued on the amendment brought by Jennifer Clark.

Senator Potter: Moved a do pass on amendment 90041.0102.

Senator Horne: Seconded. Failed, 3-4.

Senator Andrist : Moved a do pass as amended with 90041.0101.

Senator Horne: Seconded. Passed, 7-0.

Senator Nodland to carry the bill.

March 18, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1162

Page 1, line 9, after the underscored period insert "This section does not apply to the sale or offer for sale of an item that is not a flag but which portrays a likeness of a flag of the United States of America, such as food, clothing, a lapel pin, a paper product, or other non-flag item."

Renumber accordingly

++

Date: 3/18/09
Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1162

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken **Pass** **Do Not Pass** **Amended**

Motion Made By Senator Andrist Seconded By Senator Horne

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman			Senator Arthur H. Behm		
Senator Terry Wanzek - V.Chair			Senator Robert M. Horne		
Senator John M. Andrist			Senator Tracy Potter		
Senator George Nodland					

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nodland

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1162: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1162 was placed on the Sixth order on the calendar.

Page 1, line 9, after the underscored period insert "This section does not apply to the sale or offer for sale of an item that is not a flag but which portrays a likeness of a flag of the United States of America, such as food, clothing, a lapel pin, a paper product, or other non-flag item."

Renumber accordingly

2009 TESTIMONY

HB 1162

HB 1162

CHAIRMAN GRANDE

Members of the Committee!

For the record I am Rep Donald Clark from Fargo and I am here to introduce HB 1162.

This is a bill about the sale of flags. It puts a restriction on the sale of flags in ND if they are not made by a domestic manufacturer. I agreed to sponsor this bill for a constitute. Minnesota and Tennessee already have such a law.

US Law requires every American Flag be labeled with its country of origin. The Flag Manufactures Association monitors and certifies with their seal that American Flags made in the USA are made with domestic materials and US labor.

In 2000 Americans Imported \$747,000 worth of flags from other countries. In 2001 after 9/11 the figure soared to \$51.7 Million, and most of these imports were made in China. By 2006 the figure had fallen to \$5.3 million dollars with \$5.0 million dollars coming from China.

Why introduce this legislation? Well for me it is a personl thing. We borrow Trillions of dollars from China and then turn around and use some of those dollars to buy flags to cover the caskets of those who fought our battles for us. Remember many of them fought the Chinese in Korea. This is a bill about pride, Patriotism and Dignity.

This legislation goes into effect July 4th 2010 so retailers have a grace period to get rid of existing stock.

Thank You Chairman Grande and committee members.

Are there any questions?

Reference:www.fmaa-usa.com/index.php

Attachment #1



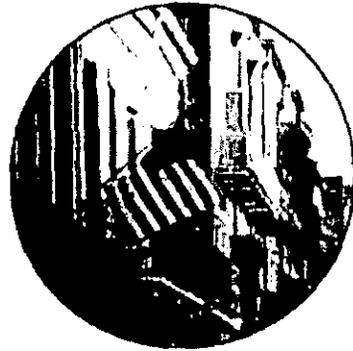
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FLAG LEGISLATION

June 2006

The "Freedom to Display the American Flag Act of 2005" (H.R. 42) was signed into law on June 24, 2006. This bill was introduced by Maryland Congressman Roscoe Bartlett, and ensures the right of an individual to display the flag of the United States at their home.



June 2005

Illinois Representative Mark Kirk introduced bill H.R. 3114, which would suspend temporarily the duty on certain flags. This bill was referred to the Committee on Ways and Means.

April 2005

Pennsylvania bill H.B. 1317 was introduced. This bill would require all government agencies to purchase only flags manufactured in the United States.

March 2005

Michigan bill H.B. 4272 was introduced. This bill would amend Public Act 63 of 1915 to permit a city, village, or township to provide a flag and flag holder under the same circumstances 1) for a grave in a cemetery within the limits of the local unit that does not belong to the local unit or 2) for the grave of a veteran who was a resident of the local unit at the time of his or her death who is buried in any cemetery in the state.

June 2005

Tennessee senate bill 2196, which requires all official flags of the United States or the state of Tennessee purchased under a state contract be manufactured in the United States, was signed into law.

January 2005

Maryland Congressman Roscoe Bartlett introduced bill H.R. 42, the "Freedom to Display the American Flag Act of 2005". This bill ensures that the right of an individual to display the United States flag on a residential property is not abridged.

January 2004

Bill H.B. 1094, which exempts sales of the flags of the United States and the state of Indiana from state sales tax, was introduced in the Indiana House by Eric Koch. This bill

was referred to the House Committee on Ways and Means, and has gained three additional coauthors.

June 2003

Ohio Representative Ted Strickland introduced bill H.R. 2410, the "Genuine American Flag Act". This bill prohibits importation of foreign-made United States flags for sale in the United States . On the date of its introduction, the bill was referred to the House Committee on Ways and Means. The bill was referred to the Subcommittee on Trade on June 12, 2003.

February 2003

Minnesota Senator Steve Murphy introduced a bill that would prohibit the sale of American flags or novelty items containing the flag unless the flag or item is manufactured in the United States . The bill was reported out of the Senate Committee on Commerce on March 1, 2004 and read for the second time. It has gained three additional authors.

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FMAA Certification

How would you feel if the American flag you so proudly display was made in another country? Kind of defeats the purpose of being a true symbol of patriotism, doesn't it? The Flag Manufacturers Association of America (FMAA) established the "Certified Made in the U.S.A. " certification program to ensure the American flags are homegrown with pride.



"Certified Made in the U.S.A. " certifies that your flag has been made in the U.S. of materials that are domestic in origin and that all processes in every step of its manufacture were completed in U.S. facilities with U.S. labor.

U.S. law requires every flag be labeled with its country of origin. Only the FMAA "Certified Made in the U.S.A. " Certification seal assures the standards and continued compliance as monitored by a professional association and its domestic members.

Manufacturing and related industry partners that specialize in providing quality American made flags and flag products have shown overwhelming support for the new program. In fact, there are five leading flag manufacturers that already support "Certified Made in the U.S.A." through FMAA:

- Annin & Co.
- C.F. Flag
- J.C. Schultz Enterprises, Inc. / The Flag Source
- Valley Forge Flag

"Certified Made in the U.S.A. " places FMAA certified members in an exclusive group of companies within the industry and across the country," expressed Sandy Van Lieu, FMAA Chairman. "In reality, our Flag has always been there for all of us and this campaign is a way for us to give back and establishes a foundation we can build on."

What you can do...

Always demand the FMAA "Certified Made in the U.S.A. " Certification on every flag you buy. The manufacturer and related industry members of the FMAA encourage you to share this information with family, friends, business associates and government entities

U.S. Flag made in America
Senator Tim Flakoll – District 44 of Fargo

I think that the American Flag (Old Glory) the symbol of the United States of America should be made in America.

This is not about protectionism but about patriotism. HB 1162 is very similar to a bill that has been passed in Minnesota. I would note that in Arizona schools and public colleges are required to outfit every classroom from junior high up with a made-in-the USA flag. Tennessee requires all U.S. flags bought via state contract to be made in the USA and other bills are pending.

I would have you note that in 2006 there were \$5.3 million worth of U.S. flags imported into the United States with \$5 million of that coming from flags made in China. The figure has been steady over the past few years with the big exception being in 2001 when \$51.7 million in foreign made U.S. flags were brought into the country. This is according to the Flag Manufacturers Association of America.

According to the U.S. Customs and Border Patrol (website) there are some 400 laws from 40 government agencies related to restricted or protected items and what people can bring into the United States, so our request is not unique.

Biologicals, ceramic tableware, cultural artifacts and cultural property, dangerous toys or materials in the toys, firearms, fish and wildlife, certain foods, game and hunting trophies, gold, medication, pets, plants and seeds soil, dog and cat fur, cars that do not properly protect their occupants, textiles and clothing and certain trademarked and copyrighted articles. Merchandise from embargoed countries such as cigars from Cuba are also restricted.

I would like you to think about a hypothetical question. Each day prior to the opening of the House floor session each of you say the Pledge of Allegiance. It is done in part out of patriotism. Would it make you feel a little twinge in your belly if every day when you say "I pledge allegiance to the flag of the United States of American" if you could clearly see a tag on the flag that reads "Made in China" I think we need a flag not just "of" the United States but "by" the United States of America.

Old Glory is as old as this country. It is a living symbol of the nation we love. It stands guard over our nation's schools, our government offices and military posts. Daily thousands upon thousands of boys and girls pledge their allegiance to me and my country. It has its own law—Public Law 829, "The Flag Code" – and special day, Flag Day. June 14.

While I think that everyone in America knows there are 50 stars and 13 stripes on our flag that is not common knowledge in many other countries that make our flag.
>>> examples

2005 Supreme Court case of Gonzales v. Raich

Justice O'Connor opinioned that:

"Federalism promotes innovation by allowing for the possibility that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country".... – this bill certainly does not put any other state or our country at risk.

One of the biggest honors you can give an American flag is that it be made in America. The American flag has protected us for more than 200 years and I feel we should protect it.

I ask for your yes vote in support of HB 1162

Attachment #2

#1

HB 1162

CHAIRMAN Klein

Members of the Committee!

For the record I am Rep Donald Clark from Fargo and I am here to introduce HB 1162.

This is a bill about the sale of flags. It puts a restriction on the sale of flags in ND if they are not made by a domestic manufacturer. I agreed to sponsor this bill for a constitute. Minnesota and Tennessee already have such a law.

US Law requires every American Flag be labeled with its country of origin. The Flag Manufactures Association monitors and certifies with their seal that American Flags made in the USA are made with domestic materials and US labor.

In 2007 Americans Imported \$747,000 worth of flags from other countries. In 2001 after 9/11 the figure soared to \$51.7 Million, and most of these imports were made in China. By 2006 the figure had fallen to \$5.3 million dollars with \$5.0 million dollars coming from China.

Why introduce this legislation? Well for me it is a personal thing. We borrow Trillions of dollars from China and then turn around and use some of those dollars to buy flags to cover the caskets of those who fought our battles for us. Remember many of them fought the Chinese in Korea. This is a bill about pride, Patriotism and Dignity. Men have followed the flag into battle for generations. Old Glory has literally inspired men to die for it. When you salute the flag you salute them. The flag is how America signs her name. It is something we can be proud of and you should have no qualms about supporting this bill.

This legislation goes into effect July 4th 2010 so retailers have a grace period to get rid of existing stock.

Thank You Chairman Klein and committee members.

Are there any questions?

HB 1162

#2

U.S. Flags made in America
Senator Tim Flakoll – District 44 of Fargo

I think that the American Flag (Old Glory) the symbol of the United States of America should be made in America.

This is not about protectionism but about economic patriotism. HB 1162 is very similar to a bill that has been passed in Minnesota. I would note that in Arizona schools and public colleges are required to outfit every classroom from junior high up with a made-in-the USA flag. Tennessee requires all U.S. flags bought via state contract to be made in the USA and other bills are pending.

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According to the U.S. Customs and Border Patrol (website) there are some 400 laws from 40 government agencies related to restricted or protected items and what people can bring into the United States, so our request is not unique.

Biologicals, ceramic tableware, cultural artifacts and cultural property, dangerous toys or materials in the toys, firearms, fish and wildlife, certain foods, game and hunting trophies, gold, medication, pets, plants and seeds soil, dog and cat fur, cars that do not properly protect their occupants, textiles and clothing and certain trademarked and copyrighted articles. Merchandise from embargoed countries such as cigars from Cuba are also restricted.

- Old Glory is as old as this country. It is a living symbol of the nation we love.
- It stands guard over our nation's schools, our government offices and military posts.
- Daily thousands upon thousands of boys and girls pledge their allegiance to ~~our nation~~ country.
the flag and
- It has its own law—Public Law 829, "The Flag Code" – and special day, Flag Day. June 14.

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One of the biggest honors you can give an American flag is that it be made in America. The American flag has protected us for more than 200 years and I feel we should protect it.

I ask for your yes vote in support of HB 1162.

End

#3

Testimony

HB 1162 Restrictions on the sale of flags of the United States of America

Senate Industry, Business and Labor
Chairman Senator J. Klein

Mr. Chairman and members of the Committee, my name is Sherry Neas, Director of the OMB Central Services Division.

The purpose of my testimony is to provide you with information related to this legislation.

As the head of the State Procurement Office, I have interaction with the Office of the U.S. Trade Representative in Washington D.C. related to trade agreements. In January, I had inquired whether this legislation would have an impact on trade agreements, but did not receive the information in time for the House hearing.

It does appear that research maybe be needed related to what extent, if any, this legislation would impact any trade agreements that affect North Dakota.

My contact at the USTR is:

Arun Venkataraman, Associate General Counsel
Office of the U.S. Trade Representative
T: 202-395-5694
C: 202-460-3935

Summary: Mr. Venkataraman referenced the General Agreement on Tariffs and Trade (GATT 1947), Part II, Article III, Section 4 (Attached). This legislation is a clear restriction on distribution of materials made outside the United States. The objective of this legislation is inconsistent with National treatment obligation—one of the most fundamental obligations of trade agreements. All international trade agreements include a “national treatment clause.” Essentially this requires the U.S. to treat all goods produced outside the U.S. no less favorably than goods produced in the U.S.

That concludes my testimony and I would be happy to answer any questions you might have.

Sherry Neas
701-328-1726

THE GENERAL AGREEMENT ON
TARIFFS AND TRADE
(GATT 1947)

This Appendix contains the complete text of the General Agreement together with all the amendments which became effective since its entry into force. For the convenience of the reader, asterisks mark the portions of the text which should be read in conjunction with notes and supplementary provisions in Annex I of the Agreement.

#3

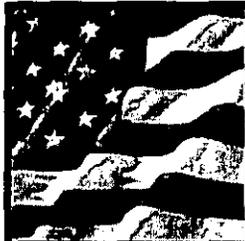
PART II

Article III*

National Treatment on Internal Taxation and Regulation

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.*
2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.*
3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.
4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.
5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.*

#4



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Evolution of the United States Flag

No one knows with **absolute certainty** who designed the first stars and stripes or who made it. Congressman Francis Hopkinson seems most likely to have designed it, and few historians believe that Betsy Ross, a Philadelphia seamstress, made the first one.

Until the Executive Order of June 24, 1912, neither the order of the stars nor the proportions of the flag was prescribed. Consequently, flags dating before this period sometimes show unusual arrangements of the stars and odd proportions, these features being left to the discretion of the flag maker. In general, however, straight rows of stars and proportions similar to those later adopted officially were used. The principal acts affecting the flag of the United States are the following:

- On June 14, 1777, in order to establish an official flag for the new nation, the Continental Congress passed the **first Flag Act**: "Resolved, That the flag of the United States be made of thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field, representing a new Constellation."
- Act of January 13, 1794 - provided for 15 stripes and 15 stars after May 1795.
- Act of April 4, 1818 - provided for 13 stripes and one star for each state, to be added to the flag on the 4th of July following the admission of each new state, signed by President Monroe.
- Executive Order of President Taft dated June 24, 1912 - established proportions of the flag and provided for arrangement of the stars in six horizontal rows of eight each, a single point of each star to be upward.
- Executive Order of President Eisenhower dated January 3, 1959 - provided for the arrangement of the stars in seven rows of seven stars each, staggered horizontally and vertically.
- Executive Order of President Eisenhower dated August 21, 1959 - provided for the arrangement of the stars in nine rows of stars staggered horizontally and eleven rows of stars staggered vertically.

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The original Pledge of Allegiance

"I pledge allegiance to my Flag and the Republic for which it stands- one nation indivisible-with liberty and justice for all."

On September 8, 1892, the Boston based "The Youth's Companion" magazine published a few words for students to repeat on Columbus Day that year. Written by Francis Bellamy, the circulation manager and native of Rome, New York, and reprinted on thousands of leaflets, was sent out to public schools across the country. On October 12, 1892, the quadricentennial of Columbus' arrival, more than 12 million children recited the Pledge of Allegiance, thus beginning a required school-day ritual.

At the first National Flag Conference in Washington D.C., on June 14, 1923, a change was made. For clarity, the words "the Flag of the United States" replaced "my flag". In the following years various other changes were suggested but were never formally adopted.

It was not until 1942 that Congress officially recognized the Pledge of Allegiance. One year later, in June 1943, the Supreme Court ruled that school children could not be forced to recite it. In fact, today only half of our fifty states have laws that encourage the recitation of the Pledge of Allegiance in the classroom!

In June of 1954 an amendment was made to add the words "under God". Then-President Dwight D. Eisenhower said "In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war."

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The United States Constitution

Should the Senate continue to block the appointment of Roland Burris, the nominee of Illinois Governor Rod Blagojevich? Tell us what you think.

Today's special event:

January 15, 1929 is Martin Luther King's birthday. Celebrate by reading his I Have a Dream speech.

The Constitution is presented in several ways on this site. This page presents the Constitution on one large HTML-enhanced page. Other pages present the Constitution as a series of individual pages, in plain text, in standard Palm DOC format, and in enhanced TealDoc format. A quick reference is also available, as are photos of the Constitution. The Constitution of China is available for comparison.

In these pages, superseded text is presented like this: *(This is superseded text.)* Added text that is not a part of the Constitution is presented like this: **(This is added text.)**

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Bonza/ao
R. Blagojevich

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-

The Constitution of the United States

Preamble *Note*

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article. I. - The Legislative Branch *Note*

Section 1 - The Legislature

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall

consist of a Senate and House of Representatives.

Section 2 - The House

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

(Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.) (The previous sentence in parentheses was modified by the 14th Amendment, section 2.) The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3 - The Senate

The Senate of the United States shall be composed of two Senators from each State, *(chosen by the Legislature thereof,)* **(The preceding words in parentheses superseded by 17th Amendment, section 1.)** for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; *(and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.) (The preceding words in parentheses were superseded by the 17th Amendment, section 2.)*

No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless

they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4 - Elections, Meetings

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Place of Chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall *(be on the first Monday in December.)* **(The preceding words in parentheses were superseded by the 20th Amendment, section 2.)** unless they shall by Law appoint a different Day.

Section 5 - Membership, Rules, Journals, Adjournment

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6 - Compensation

(The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.) **(The preceding words in parentheses were modified by the 27th Amendment.)** They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7 - Revenue Bills, Legislative Process, Presidential Veto

All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8 - Powers of Congress

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and Post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9 - Limits on Congress

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

(No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.) (Section in parentheses clarified by the 16th Amendment.)

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over

those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince or foreign State.

Section 10 - Powers prohibited of States

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II. - The Executive Branch Note

Section 1 - The President Note1 Note2

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice-President chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

(The Electors shall meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not lie an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person

have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.) (This clause in parentheses was superseded by the 12th Amendment.)

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

(In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.) (This clause in parentheses has been modified by the 20th and 25th Amendments.)

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2 - Civilian Power over Military, Cabinet, Pardon Power, Appointments

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3 - State of the Union, Convening Congress

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4 - Disqualification

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III. - The Judicial Branch *Note*

Section 1 - Judicial powers

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

Section 2 - Trial by Jury, Original Jurisdiction, Jury Trials

(The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.) (This section in parentheses is modified by the 11th Amendment.)

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3 - Treason *Note*

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV. - The States

Section 1 - Each State to Honor all others

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2 - State citizens, Extradition

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

(No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, But shall be delivered up on Claim of the Party to whom such Service or Labour may be due.) (This clause in parentheses is superseded by the 13th Amendment.)

Section 3 - New States

New States may be admitted by the Congress into this Union; but no new States shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4 - Republican government

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article. V. - Amendment Note1 - Note2 - Note3

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a

Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article. VI. - Debts, Supremacy, Oaths

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII. - Ratification Documents

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In Witness whereof We have hereunto subscribed our Names. Note

Go Washington - President and deputy from Virginia

New Hampshire - John Langdon, Nicholas Gilman

Massachusetts - Nathaniel Gorham, Rufus King

Connecticut - Wm Saml Johnson, Roger Sherman

New York - Alexander Hamilton

New Jersey - Wil Livingston, David Brearley, Wm Paterson, Jona. Dayton

Pensylvania - B Franklin, Thomas Mifflin, Robt Morris, Geo. Clymer, Thos FitzSimons, Jared Ingersoll,

James Wilson, Gouv Morris

Delaware - Geo. Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jaco. Broom

Maryland - James McHenry, Dan of St Tho Jenifer, Danl Carroll

Virginia - John Blair, James Madison Jr.

North Carolina - Wm Blount, Richd Dobbs Spaight, Hu Williamson

South Carolina - J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler

Georgia - William Few, Abr Baldwin

Attest: William Jackson, Secretary

The Amendments *Note*

The following are the Amendments to the Constitution. The first ten Amendments collectively are commonly known as the Bill of Rights. *History*

Amendment 1 - Freedom of Religion, Press, Expression. Ratified 12/15/1791. *Note*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment 2 - Right to Bear Arms. Ratified 12/15/1791. *Note*

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment 3 - Quartering of Soldiers. Ratified 12/15/1791. *Note*

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment 4 - Search and Seizure. Ratified 12/15/1791.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable

searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 5 - Trial and Punishment, Compensation for Takings. Ratified 12/15/1791.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 6 - Right to Speedy Trial, Confrontation of Witnesses. Ratified 12/15/1791.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment 7 - Trial by Jury in Civil Cases. Ratified 12/15/1791.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment 8 - Cruel and Unusual Punishment. Ratified 12/15/1791.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment 9 - Construction of Constitution. Ratified 12/15/1791.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment 10 - Powers of the States and People. Ratified 12/15/1791. *Note*

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Amendment 11 - Judicial Limits. Ratified 2/7/1795. *Note History*

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Amendment 12 - Choosing the President, Vice-President. Ratified 6/15/1804. *Note History The Electoral College*

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;

The person having the greatest Number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment 13 - Slavery Abolished. Ratified 12/6/1865. *History*

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

Amendment 14 - Citizenship Rights. Ratified 7/9/1868. *Note History*

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment 15 - Race No Bar to Vote. Ratified 2/3/1870. *History*

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 16 - Status of Income Tax Clarified. Ratified 2/3/1913. *Note History*

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Amendment 17 - Senators Elected by Popular Vote. Ratified 4/8/1913. *History*

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment 18 - Liquor Abolished. Ratified 1/16/1919. Repealed by Amendment 21, 12/5/1933. *History*

1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment 19 - Women's Suffrage. Ratified 8/18/1920. *History*

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Amendment 20 - Presidential, Congressional Terms. Ratified 1/23/1933. *History*

1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

Amendment 21 - Amendment 18 Repealed. Ratified 12/5/1933. *History*

1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

3. The article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment 22 - Presidential Term Limits. Ratified 2/27/1951. *History*

1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President, when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Amendment 23 - Presidential Vote for District of Columbia. Ratified 3/29/1961. *History*

1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.
 2. The Congress shall have power to enforce this article by appropriate legislation.
-

Amendment 24 - Poll Tax Barred. Ratified 1/23/1964. *History*

1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.
 2. The Congress shall have power to enforce this article by appropriate legislation.
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Amendment 25 - Presidential Disability and Succession. Ratified 2/10/1967. *Note History*

1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.
2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.
3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.
4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty eight hours for that purpose if not in session. If the Congress, within twenty one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty one days after Congress is required to assemble, determines by two thirds vote

of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment 26 - Voting Age Set to 18 Years. Ratified 7/1/1971. *History*

1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
 2. The Congress shall have power to enforce this article by appropriate legislation.
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Amendment 27 - Limiting Congressional Pay Increases. Ratified 5/7/1992. *History*

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.



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Last Modified: 24 Oct 2008

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Tenth Amendment to the United States Constitution

From Wikipedia, the free encyclopedia

The **Tenth Amendment (Amendment X)** of the United States Constitution, which is part of the Bill of Rights, was ratified on December 15, 1791. The Tenth Amendment restates the Constitution's principle of Federalism by providing that powers not granted to the National government nor prohibited to the states are reserved to the states and to the people.

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Text

“ *The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.* ”

History and case law

The Tenth Amendment is similar to an earlier provision of the Articles of Confederation: "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled."^[1] After the Constitution was ratified, some wanted to add a similar amendment limiting the federal government to powers "expressly" delegated, which would have denied implied powers.^[2] However, the word "expressly" ultimately did not appear in the Tenth Amendment as ratified, and therefore the Tenth Amendment did not amend the Necessary and Proper Clause.

The Tenth Amendment, which makes explicit the idea that the federal government is limited only to the powers granted in the Constitution is generally recognized to be a truism. In *United States v. Sprague* (1931) the Supreme Court noted that the amendment "added nothing to the [Constitution] as originally ratified."

United States of America



This article is part of the series:
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From time to time states and local governments have attempted to assert exemption from various federal regulations, especially in the areas of labor and environmental controls, using the Tenth Amendment as a basis for their claim. An often-repeated quote, from *United States v. Darby*, 312 U.S. 100, 124 (1941), reads as follows:

The amendment states but a truism that all is retained which has not been surrendered. There is nothing in the history of its adoption to suggest that it was more than declaratory of the relationship between the national and state governments as it had been established by the Constitution before the amendment or that its purpose was other than to allay fears that the new national government might seek to exercise powers not granted, and that the states might not be able to exercise fully their reserved powers.

The Tenth Amendment makes explicit what had before only been implied. It is also worth keeping in mind that the reserved powers mentioned in the Tenth Amendment are not the only powers that state governments possess. They additionally have what are called concurrent powers, which are held by both the states and the federal government. However, Congress may be able in some instances to preempt those concurrent state powers.

Under the premise that the Constitution splits all federal powers into two groups, i.e., those of Constitutional level and those of lesser stature authorized by the Necessary and Proper Clause, there is also a minority opinion that argues that the Tenth Amendment, being of the higher Constitutional level, prohibits all Constitutional level powers not authorized. By definition, any and all powers mentioned in the Constitution are of the Constitutional level, and all powers that are not mentioned are of lesser stature. Since mentioned powers are mostly prohibitions on the states, this interpretation argues that the Tenth Amendment makes those prohibitions effective on the federal government as well, except in cases where specific authorization is granted. This interpretation is contrary to the widespread use of the Necessary and Proper Clause to authorize the use of Constitutional level powers that are mentioned but not authorized.



The Bill of Rights in the National Archives

Forced participation or commandeering

As suggested above, the Supreme Court rarely declares laws unconstitutional for violating the Tenth Amendment. In the modern era, the Court has only done so where the federal government compels the states to enforce federal statutes. In 1992, in *New York v. United States*, 505 U.S. 144 (1992), for only the second time in 55 years, the Supreme Court invalidated a portion of a federal law for violating the Tenth Amendment. The case challenged a portion of the Low-Level Radioactive Waste Policy Amendments Act of 1985. The act provided three incentives for states to comply with statutory obligations to provide for the disposal of low-level radioactive waste. The first two incentives were monetary. The third, which was challenged in the case, obliged states to take title to any waste within their borders that was not disposed of prior to January 1, 1996, and made each state liable for all damages

directly related to the waste. The Court, in a 6–3 decision, ruled that the imposition of that obligation on the states violated the Tenth Amendment. Justice O'Connor wrote that the federal government can encourage the states to adopt certain regulations through the spending power (i.e., by attaching conditions to the receipt of federal funds, see *South Dakota v. Dole*), or through the commerce power (by directly pre-empting state law). However, Congress cannot directly compel states to enforce federal regulations. In 1997, the Court again ruled that a federal act Brady Handgun Violence Prevention Act, violated the Tenth Amendment (*Printz v. United States*, 521 U.S. 898 (1997)). The act required state and local law enforcement officials to conduct background checks on persons attempting to purchase handguns. Justice Scalia, writing for the majority, applied *New York v. United States* to show that the law violated the Tenth Amendment. Since the act "forced participation of the State's executive in the actual administration of a federal program," it was unconstitutional.

Commerce clause

According to the Tenth Amendment, the government of the United States has the power to regulate only matters specifically delegated to it by the Constitution. Other powers are reserved to the states, or to the people (and even the states cannot alienate some of these). The Commerce Clause is one of the Article Section 8 powers specifically delegated to Congress and thus its interpretation is very important in determining the scope of federal legislative power.

In the twentieth century, complex economic challenges of the Great Depression triggered a reevaluation in both Congress and the Supreme Court of the use of Commerce Clause powers to maintain a strong national economy.

In *Wickard v. Filburn* (1942), in the context of the Second World War, the Court ruled that federal regulations of wheat production could constitutionally be applied to wheat grown for "home consumption" on a farm--that is, wheat grown to be fed to farm animals or otherwise consumed on the farm. The rationale was that a farmer's growing "his own wheat" can have a substantial cumulative effect on interstate commerce, because if all farmers were to exceed their production quotas, a significant amount of wheat would either not be sold on the market or would be bought from other producers. Hence, in the aggregate, if farmers were allowed to consume their own wheat, it would affect the interstate market in wheat.

In *Garcia v. San Antonio Metropolitan Transit Authority* (1985), the Court changed the analytic framework to be applied in Tenth Amendment cases. Prior to the Garcia decision, the determination of whether there was state immunity from federal regulation turned on whether the state activity was "traditional" for or "integral" to the state government. The Court noted that this analysis was "unsound in principle and unworkable in practice," and rejected it without providing a replacement. The Court's holding declined to set any formula to provide guidance in future cases. Instead, it simply held "...we need go no further than to state that we perceive nothing in the overtime and minimum-wage requirements of the FLSA ... that is destructive of state sovereignty or violative of any constitutional provision." It left to future courts how best to determine when a particular federal regulation may be "destructive of state sovereignty or violative of any constitutional provision."

In *United States v. Lopez* 514 U.S. 549 (1995), a federal law mandating a "gun-free zone" on

and around public school campuses was struck down because, the Supreme Court ruled, there was no clause in the Constitution authorizing it. This was the first modern Supreme Court opinion to limit the government's power under the Commerce Clause. The opinion did not mention the Tenth Amendment, and the Court's 1985 *Garcia* opinion remains the controlling authority on that subject.

Most recently, the Commerce Clause was cited in the 2005 decision *Gonzales v. Raich*. In this case, a California woman sued the Drug Enforcement Administration after her medical marijuana crop was seized and destroyed by Federal agents. Medical marijuana was explicitly made legal under California state law by Proposition 215; however, marijuana is prohibited at the federal level by the Controlled Substances Act. Even though the woman grew the marijuana strictly for her own consumption and never sold any, the Supreme Court stated that growing one's own marijuana *affects* the interstate market of marijuana, citing the *Wickard v. Filburn* decision. The theory was that the marijuana *could* enter the stream of interstate commerce, even if it clearly wasn't grown for that purpose and it was unlikely ever to happen. It therefore ruled that this practice may be regulated by the federal government under the authority of the Commerce Clause.

Federal funding

The federal system limits the ability of the federal government to use state governments as an instrumentality of the national government. *Printz v. United States*, 521 U.S. 898 (1997). However, where Congress has the power to implement programs, or to regulate, there are sound reasons for the national government to encourage States to become the instrumentalities of national policy, rather than to implement the program directly. One advantage is that state implementation of national programs places implementation in the hands of local officials who are closer to local circumstances. Another advantage is that implementation of federal programs at the state level tends to limit the growth of the national bureaucracy.

For this reason, Congress often seeks to exercise its powers by offering or encouraging the States to implement national programs consistent with national minimum standards. The mechanisms are discussed in the article on cooperative federalism. One example of the exercise of this device was to condition allocation of federal funding where certain state laws do not conform to federal guidelines. For example, federal educational funds may not be accepted without implementation of special education programs in compliance with IDEA. Similarly, the nationwide state 55 mph (90 km/h) speed limit and the nationwide state 21-year drinking age were imposed through this method; the states would lose highway funding if they refused to pass such laws. See e.g. *South Dakota v. Dole*, 483 U.S. 203 (1987).

Footnotes

- [^] Yale Law School Avalon Project. "Articles of Confederation from Yale University". Retrieved on 2007-12-16.
- [^] University of Chicago. "House of Representatives, Amendments to the Constitution". Retrieved on 2007-12-16.

External links

- CRS Annotated Constitution: Tenth Amendment Cornell's Annotated Constitution.
- Tenth Amendment Center The Tenth Amendment Center works to preserve and protect Tenth Amendment freedoms through information and education. The center serves as a forum for the study and exploration of states' rights issues, focusing primarily on the decentralization of federal government power.
- Exploring Constitutional Conflicts by Doug Lindner: This site explores some of the issues and controversies that surround the U.S. Constitution.

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What's New in Travel

Prohibited and Restricted Items

(05/08/2008)



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CBP has been entrusted with enforcing some 400 laws for 40 other government agencies, such as the U.S. Fish and Wildlife Service and the U.S. Department of Agriculture. These other agencies have a need to know what people bring into the United States, but they are not always at ports of entry, guarding our borders. CBP officers are *always* at ports of entry—their primary mission is to safeguard America's borders.

The products we need to prevent from entering the United States are those that would injure community health, public safety, American workers, children, or domestic plant and animal life, or those that would defeat our national political interests. Sometimes the products that cause injury, or have the potential to do so, may seem fairly innocent. But, as you will see from the material that follows, appearances can be deceiving.

Before you leave for your trip abroad, you might want to talk to CBP about the items you plan to bring back to be sure they're not prohibited or restricted. *Prohibited* means the item is forbidden by law to enter the United States. Examples of prohibited items are dangerous toys, cars that don't protect their occupants in a crash, or illegal substances like absinthe and Rohypnol. *Restricted* means that special licenses or permits are required from a federal agency before the item is allowed to enter the United States. Examples of restricted items include firearms and certain fruits, vegetables, pets, and textiles.

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Absinthe (Alcohol)

CBP's responsibility to control the importation of distilled spirits, including absinthe, is subject to regulations of the Alcohol and Tobacco Tax and Trade Bureau (TTB) (See 19 CFR Part 11.7). TTB permits, subject to certain content and labeling (Certificate of Label Approval (COLA)) restrictions, the importation of distilled

see also:

In Know Before You Go:

- Top 10 Traveler Tips (pdf - 880 KB.)
- 10 Consejos Importantes para los Viajeros (pdf - 876 KB.)
- Traveler's Checklist
- What is CBP?
- Your Inspection
- Terms Used in this Booklet
- Preparing to Return to the United States
- ...more

on cbp.gov:

- Classification and Entry Requirements of Alcoholic Beverages and Spirits (pdf - 144 KB.)

on the web:

- Harmonized Tariff Schedule
- Absinthe
- NHTSA
- Environmental Protection Agency
- Office of Regulatory Affairs - Imports
- Bureau of Alcohol, Tobacco and Firearms
- Travelers Tips
- Food and Drug Administration permits
- Office of Foreign Assets Control
- FDAs Subchapter on Coverage of Personal Importations
- U.S. Department of States Passport Agency
- embassy, consular office
- USDA
- Centers for Disease Control
- Bureau of Alcohol, Tobacco, Firearms and Explosives
- U.S. Fish and Wildlife Service
- The Bioterrorism Act of 2002
- Office of Foreign Assets Control
- APHIS Travel Web (Pets)
- APHIS Plant Import

spirits being marketed as "absinthe."

APHIS

Animal and Plant Health
Inspection Service

Transportation Security
Administration

Department of the Treasury

Alcohol and Tobacco Tax and
Trade Bureau

Commercial Importations - Certain importations of distilled spirits called "absinthe" containing a minimal amount of the ingredient thujone (the thujone level must be less than 10 parts per million) may be permitted, if the brands have been tested according to FDA standards and their labels approved by TTB. Commercial importers must produce both an Importer's Basic Permit and a Certificate of Label Approval (COLA) issued by TTB demonstrating label and thujone content approval. Any commercial importations of distilled spirits declared or believed to be absinthe which do not have a Certificate of Label Approval (COLA) approved by TTB cannot be imported, unless the entry is submission of a sample (presented with an Importer's Basic Permit) to the Beverage Alcohol Laboratory for testing and approval purposes. (Department of the Treasury)

Returning Passengers should be aware that, in addition to compliance with the general rules governing importations of alcohol for personal use, passengers must comply with the following requirements for importing distilled spirits labeled as absinthe for personal use:

1. Only the brands of absinthe that have received TTB approval will be permitted entry. Absinthe imported for personal use that bears an unapproved label will be denied entry.
2. Travelers planning in advance to return with absinthe for personal use should consult TTB in order to determine which brands of absinthe have been tested and approved for importation.
3. Questions regarding brands of absinthe approved for importation and the labeling and thujone limit requirements should be addressed to TTB at (202) 927-5000 or ttbquestions@ttb.treas.gov. Please note that TTB does not maintain a "list" of approved absinthe labels; rather, the public can search the publicly available COLA registry. (Alcohol and Tobacco Tax and Trade Bureau)

For basic requirements regarding the importation of alcoholic beverages, see generally the Informed Compliance Publication titled "Classification and Entry Requirements of Alcoholic Beverages and Spirits." (Classification and Entry Requirements of Alcoholic Beverages and Spirits (pdf - 144 KB.))

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Automobiles

Automobiles imported into the United States must meet the fuel-emission requirements of the Environmental Protection Agency (EPA) and the safety, bumper, and theft-prevention standards of the U.S. Department of Transportation (DOT). Trying to import a car that doesn't meet all the requirements can be a frustrating experience for the following reasons. (See the CBP brochure, *Importing a Car*)

Almost all cars, vans, sport utility vehicles, and so on that are bought in foreign countries must be modified to meet American standards. Passenger vehicles that are imported on the condition that they be modified must be exported or destroyed if they are not modified acceptably. Also under these circumstances, the vehicle could require a bond upon entry until the conditions for admission have been met.

And even if the car does meet all federal standards, it might be subject to additional EPA requirements, depending on what countries it was driven in. You are strongly encouraged to contact EPA and DOT before importing a car.

Information on importing vehicles can be obtained from visiting the Environmental Protection Agency web site at www.epa.gov (Environmental Protection Agency), or by writing to Attn.: 6405J, Washington, DC 20460, or by telephone at (202) 564-9240 for EPA forms (202) 564-9660. You may also contact the U.S. Department of Transportation, Office of Vehicle Safety Compliance (NEF 32) NHTSA, Washington, DC 20590, by telephone at (800) 424-9393, or by visiting the DOT web site at www.nhtsa.dot.gov (NHTSA).

Copies of the brochure *Importing or Exporting a Car* can be obtained by writing to U.S. Customs and Border Protection, P.O. Box 7407, Washington, DC 20044; or visiting the CBP web site at www.cbp.gov. The EPA *Automotive Imports Fact Manual* can be obtained by writing to the Environmental Protection Agency, Washington, DC 20460; or by visiting www.epa.gov (Environmental Protection Agency).

Cars being brought into the United States temporarily (for less than one year) are exempt from

these restrictions. It is illegal to bring a vehicle into the United States and sell it if it was not formally entered on a CBP Form 7501.

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Biologicals

You may need a U.S. Department of Agriculture permit to import biological specimens including bacterial cultures, culture medium, excretions, fungi, arthropods, mollusks, tissues of livestock, birds, plants, viruses, vectors for research, biological or pharmaceutical use. Permit requirements are located under "Permits" on the USDA Website at www.aphis.usda.gov (USDA). For some permits you may have to contact the Centers for Disease Control at www.cdc.gov (Centers for Disease Control).

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Ceramic Tableware

Although ceramic tableware is not prohibited or restricted, you should know that such tableware made in foreign countries may contain dangerous levels of lead in the glaze, which can seep into foods and beverages. The U.S. Food and Drug Administration recommends that if you buy ceramic tableware abroad—especially in Mexico, China, Hong Kong, or India—you have it tested for lead release when you return, or use it for decorative purposes only.

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Cultural Artifacts and Cultural Property (Art/Artifacts)



Most countries have laws that protect their cultural property: art/artifacts/antiquities; archaeological and ethnological material are also terms that are used. Such laws include export controls and/or national ownership of cultural property. Even if purchased from a business in the country of origin or in another country, legal ownership of such artifacts may be in question if brought into the United States. Therefore, although they do not necessarily confer ownership, you must have documents such as export permits and receipts when importing such items into the United States.

While foreign laws may not be enforceable in the United States, they can cause certain U.S. laws to be invoked. For example, under the U.S. National Stolen Property Act, one cannot have legal title to art/artifacts/antiquities that were stolen—no matter how many times such items may have changed hands. Articles of stolen cultural property from museums or from religious or secular public monuments originating in any of the countries party to the 1970 UNESCO Convention specifically may not be imported into the United States.

U.S. law may also restrict the importation of specific categories of art/artifacts/antiquities. For example, U.S. laws restrict the importation of: 1) Any pre Columbian monumental and architectural sculpture and murals from Central and South American countries; 2) Native American artifacts from Canada; Mayan pre Columbian archaeological objects from Guatemala; pre Columbian archaeological objects from El Salvador and Peru; archaeological objects like terracotta statues) from Mali; Colonial period objects such as paintings and ritual objects from Peru; 3) Byzantine period ritual and ecclesiastic objects such as icons from Cyprus; and 4) Khmer stone archaeological sculpture from Cambodia.

Importation of items such as those listed above is permitted only when an export permit issued by the country of origin, where such items were first found accompanies them. Purveyors of such items have been known to offer phony export certificates.

As additional U.S. import restrictions may be imposed in response to requests from other countries, it is wise for prospective purchasers to visit the State Department cultural property web site. This web site also has images representative of the categories of cultural property for which there are specific U.S. import restrictions.

Merchandise determined to be Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific and religious importance illegally removed from the Iraq National Museum, the National Library and other locations in Iraq, since August 6, 1990, are also prohibited from importation.

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Dog and Cat Fur

It is illegal in the United States to import, export, distribute, transport, manufacture, or sell products containing dog or cat fur in the United States. As of November 9, 2000, the Dog and Cat Protection Act of 2000 calls for the seizure and forfeiture of each item containing dog or cat fur.

The Act provides that any person who violates any provision may be assessed a civil penalty of not more than \$10,000 for each separate knowing and intentional violation, \$5,000 for each separate gross negligent violation, or \$3,000 for each separate negligent violation.

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Drug Paraphernalia

It is illegal to bring drug paraphernalia into the United States unless they have been prescribed for authentic medical conditions such as diabetes. CBP will seize any illegal drug paraphernalia. Law prohibits the importation, exportation, manufacture, sale, or transportation of drug paraphernalia. If you are convicted of any of these offenses, you will be subject to fines and imprisonment.

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Firearms

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulates and restricts firearms and ammunition; and approves all import transactions involving weapons and ammunition. If you want to import or export weapons or ammunition, you must do so through a licensed importer, dealer, or manufacturer. Also, if the National Firearms Act prohibits certain weapons, ammunition, or similar devices from coming into the country, you will not be able to import them unless the ATF provides you with written authorization to do so.

You do not need an ATF permit if you can demonstrate that you are returning with the same firearms or ammunition that you took out of the United States. To prevent problems when returning, you should register your firearms and related equipment by taking them to any CBP office before you leave the United States. The CBP officer will register them on the same CBP Form-4457 used to register cameras or computers. (See the section on **Register Items Before You Leave the United States**).

For further information about importing weapons, contact the Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice, Washington, DC 20226; or call (202) 927-8320; or visit www.atf.gov (Bureau of Alcohol, Tobacco, Firearms and Explosives).

Many countries will not allow you to enter with a firearm even if you are only traveling through the country on the way to your final destination. If you plan to take your firearms or ammunition to another country, you should contact officials at that country's embassy to learn about its regulations.

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Fish and Wildlife

Certain fish and wildlife, and products made from them are subject to import and export restrictions, prohibitions, permits or certificates, and quarantine requirements. We recommend that you contact the U.S. Fish and Wildlife Service before you depart if you plan to import or export any of the following:

- Wild birds, land or marine mammals, reptiles, fish, shellfish, mollusks, or invertebrates.
- Any part or product of the above, such as skins, tusks, bone, feathers, or eggs.
- Products or articles manufactured from wildlife or fish.

Endangered species of wildlife, and products made from them, generally may not be imported or exported. You will need a permit from the U.S. Fish and Wildlife Service to import virtually all types of ivory, unless it is from a warhog. The U.S. Fish and Wildlife Service has so many restrictions and prohibitions on various kinds of ivory—Asian elephant, African elephant, whale, rhinoceros, seal,



pre-Endangered Species Act, post-CITES (Convention on International Trade in Endangered Species), and many others—that they urge you to contact them before you even think of acquiring ivory in a foreign country. You may contact them at **(800) 358-2104**.

You may import an object made of ivory if it is an antique. To be an antique the ivory must be at least 100 years old. You will need documentation that authenticates the age of the ivory. You may import other antiques containing wildlife parts with the same condition, but they must be accompanied by documentation proving they are at least 100 years old. Certain other requirements for antiques may apply.

If you plan to buy such things as tortoiseshell jewelry, or articles made from whalebone, ivory, skins, or fur, contact the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 3247, Arlington, VA 22203-3247, or call **(800) 358-2104** or visit www.fws.gov (U.S. Fish and Wildlife Service). Hunters can get information on the limitations for importing and exporting migratory game birds from this office as well. Ask for their pamphlet, **Facts About Federal Wildlife Laws**.

The U.S. Fish and Wildlife Service has designated specific ports of entry to handle fish and wildlife entries. If you plan to import anything discussed in this section, please contact CBP. CBP will tell you about designated ports and send you the brochure **Pets and Wildlife**, which describes the regulations CBP enforces for all agencies that oversee the importation of animals.

Some states have fish and wildlife laws and regulations that are stricter than federal laws and regulations. If you are returning to such a state, be aware that the stricter state laws and regulations have priority. Similarly, the federal government does not allow you to import wild animals into the United States that were taken, killed, sold, possessed, or exported from another country if any of these acts violated foreign laws.

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Food Products (Prepared)

You may bring bakery items and certain cheeses into the United States. The APHIS web site features a Travelers Tips section and Game and Hunting Trophies section that offers extensive information about bringing food and other products into the country. Many prepared foods are admissible. However, almost anything containing meat products, such as bouillon, soup mixes, etc., is not admissible. As a general rule, condiments, vinegars, oils, packaged spices, honey, coffee and tea are admissible. Because rice can often harbor insects, it is best to avoid bringing it into the United States.

Some imported foods are also subject to requirements of the U.S. Food and Drug Administration.

Prior Notice for Food Importation

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Bioterrorism Act or BTA), Public Law 107-188, established the requirement that food items, imported (or offered for import) for commercial use, including hand-carried quantities, be properly reported to the U.S. Food and Drug Administration (FDA) prior to arrival of those items in the United States. The FDA prior notification timeframes (by transport mode) are two hours by land, four hours by rail or air, eight hours by vessel and prior to the "time of mailing" for international mail.

Food that was made by an individual in his/her personal residence, or food purchased by an individual from a vendor that is sent by that individual as a personal gift (for non-business reasons) to someone in the United States is not subject to BTA requirements. However, food that is sent to an individual in the U.S. by a business is subject to special requirements of the Food and Drug Administration. For instance, if you go to a food shop in England and buy a gift basket, then take it to the post office or a courier service to send to a friend, the shipment is not subject to BTA requirements. But if you go to that same shop and ask them to send the gift basket for you, the shipment is subject to BTA requirements, and the vendor will have to file Prior Notice. Many travelers are finding that vendors will not ship food directly to U.S. residents because the reporting requirements can be time-consuming to complete.

In general, failure to provide complete, timely and accurate prior notice for BTA regulated items, can result in refusal of admission of the merchandise, movement of the goods to an FDA registered facility (at importer expense) and/or civil monetary penalty liabilities for any party that was involved in the import transaction.

For full details regarding the latest FDA BTA requirements, including those food items exempt from these requirements, access the FDA Website at www.fda.gov/oc/bioterrorism/bioact.html (The

Bioterrorism Act of 2002).

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Fruits and Vegetables

Bringing fruits and vegetables can be complicated. For instance, consider the apple you bought in the foreign airport just before boarding and then did not eat? Whether or not CBP will allow the apple into the United States depends on where you got it and where you are going after you arrive in the United States. The same would be true for those magnificent Mediterranean tomatoes. Fresh fruits and vegetables can carry plant pests or diseases into the United States.

One good example of problems imported fruits and vegetables can cause is the Mediterranean fruit fly outbreak during the 1980s. The outbreak cost the state of California and the Federal Government approximately \$100 million to get rid of this pest. The cause of the outbreak was one traveler who brought home one contaminated piece of fruit. It is best not to bring fresh fruits or vegetables into the United States. However, if you plan to, contact either CBP or check the Travelers Information section on the USDA-APHIS web site ([APHIS](#)) for a general approved list on items that need a permit.

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Game and Hunting Trophies

If you plan to import game or a hunting trophy, please contact the U.S. Fish and Wildlife Service before you leave at **(800) 358-2104**. Currently, 14 ports of entry are designated to handle game and trophies; other ports must get approval from the U.S. Fish and Wildlife Service to clear your entry.

Depending on the species you bring back, you might need a permit from the country where the animal was harvested. Regardless of the species, you are required to fill out a Fish and Wildlife Form 3-177, Declaration for Importation or Exportation.

Trophies may also be subject to inspection by CBP for sanitary purposes. General guidelines for importing trophies can be found on APHIS Website under the APHIS Import Authorization System (IAS) ; (Animal and Plant Health Inspection Service) or by writing to USDA, APHIS, VS, NCIE Products Program, 4700 River Road, Unit 40, Riverdale, MD 20737-1231; or by calling **301.734.3277**.

Also, federal regulations do not allow the importation of any species into a state with fish or wildlife laws that are more restrictive than federal laws. If foreign laws were violated in the taking, sale, possession, or export to the United States of wild animals, those animals will not be allowed entry into the United States.

Warning: There are many regulations, enforced by various agencies, governing the importation of animals and animal parts. Failure to comply with them could result in time-consuming delays in clearing your trophy through CBP. You should always call for guidance before you depart.

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Gold

Gold coins, medals, and bullion, formerly prohibited, may be brought into the United States. However, under regulations administered by the Office of Foreign Assets Control, such items originating in or brought from Cuba, Iran, Iraq, Libya, Serbia, and Sudan are prohibited entry. Copies of gold coins are prohibited if not properly marked by country of issuance.

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Meats, Livestock, and Poultry

The regulations governing meat and meat products are very strict. You may not import fresh, dried, or canned meats or meat products from most foreign countries into the United States. Also, you may not import food products that have been prepared with meat.

The regulations on importing meat and meat products change frequently because they are based on disease outbreaks in different areas of the world. APHIS, which regulates meats and meat products as well as fruits and vegetables, invites you to contact them for more information on importing meats. You may write to USDA-APHIS Veterinary Services National Center for

Import/Export (NCIE), 4700 River Road, Unit 40, Riverdale, MD 20737-1231; or call (301) 734-7830.

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Medication

Rule of thumb: *When you go abroad, take the medicines you will need, no more, no less.* Narcotics and certain other drugs with a high potential for abuse—Rohypnol, GHB, and Fen-Phen, to name a few — may not be brought into the United States, and there are severe penalties for trying to do so. If you need medicines that contain potentially addictive drugs or narcotics (e.g., some cough medicines, tranquilizers, sleeping pills, antidepressants, or stimulants), do the following:

- Declare all drugs, medicinals, and similar products to the appropriate CBP official.
- Carry such substances in their original containers.
- Carry only the quantity of such substances that a person with that condition (e.g., chronic pain) would normally carry for his/her personal use.
- Carry a prescription or written statement from your physician that the substances are being used under a doctor's supervision and that they are necessary for your physical well being while traveling.

U.S. residents entering the United States at international land borders, who are carrying a validly obtained controlled substance (other than narcotics such as marijuana, cocaine, heroin, or LSD), are subject to certain additional requirements. If a U.S. resident wants to bring in a controlled substance (other than narcotics such as marijuana, cocaine, heroin, or LSD) but does not have a prescription for the substance issued by a U.S.-licensed practitioner (e.g., physician, dentist, etc.) who is registered with, and authorized by, the Drug Enforcement Administration (DEA) to prescribe the medication, the individual may not import more than 50 dosage units of the medication into the United States. If the U.S. resident has a prescription for the controlled substance issued by a DEA registrant, more than 50 dosage units may be imported by that person, provided all other legal requirements are met.

Please note that only medications that can be legally prescribed in the United States may be imported for personal use. Be aware that possession of certain substances may also violate state laws. As a general rule, the FDA does not allow the importation of prescription drugs that were purchased outside the United States. Please see their Website for information about the enforcement policy for personal use quantities.

Warning: The U.S. Food and Drug Administration (FDA) prohibits the importation, by mail or in person, of fraudulent prescription and nonprescription drugs and medical devices. These include unorthodox "cures" for such medical conditions as cancer, AIDS, arthritis, or multiple sclerosis. Although such drugs or devices may be legal elsewhere, if the FDA has not approved them for use in the United States, they may not legally enter the country and will be confiscated, even if they were obtained under a foreign physician's prescription.

For specifics about importing controlled substances, call (202) 307-9932. For additional information about traveling with medication, contact your nearest FDA office or write to the U.S. Food and Drug Administration, Division of Import Operations and Policy, Room 12-8 (HFC-170), 5600 Fishers Lane, Rockville, MD 20857.

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Merchandise from Embargoed Countries

Generally, you may not bring in any goods from the following (if not followed by an asterisk or where specified that the embargo only applies to diamonds): Cuba, Iran*, Iraq*, Serbia and Montenegro*, North Korea*, Burma (Myanmar), Angola, Liberia and Sierra Leone (diamonds only) and Sudan. The Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury enforces this ban.

*The embargo on Iranian goods has been revised to allow the importation of food stuffs intended for human consumption, carpets and other textile floor coverings. Please check with your local port for further details.

* Only certain Iraqi cultural property or other items of archaeological, historical/cultural, rare scientific and religious importance illegally removed from the Iraq National Museum, the National Library and other locations in Iraq is prohibited.

*There is a general lifting of the embargo on Serbia and Montenegro (exception relates to certain "Specially Designated Nationals" and "Blocked Persons" involving transactions prior to January 19, 2000. For more information visit OFAC web site at <http://www.treas.gov/offices/eotfca/ofac/> (Office of Foreign Assets Control).

*The importation of merchandise from North Korea requires a letter of approval issued by the OFAC.

You may, however, may bring in *information and informational materials*—books, magazines, films, posters, photographs, microfilms, tapes, CDs, records, works of art, etc. Blank tapes and blank CDs are not informational materials.

If you want to import merchandise from any of these countries, you will first need a specific license from the Office of Foreign Assets Control. Such licenses are rarely granted.

There are strictly enforced restrictions on travel to these countries. Therefore, before making plans to visit any of the countries on this list, you should write to the Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, or visit their web site at www.treas.gov/ofac (Office of Foreign Assets Control).

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Pets

If you plan to take your pet abroad or import one on your return, please get a copy of the CBP brochure *Pets and Wildlife*. You should also check with state, county, and local authorities to learn if their restrictions and prohibitions on pets are stricter than federal requirements.

Importing animals is closely regulated for public health reasons and also for the well being of the animals. There are restrictions and prohibitions on bringing many species into the United States.

Cats must be free of evidence of diseases communicable to humans when they are examined at the port of entry. If the cat does not seem to be in good health, the owner may have to pay for an additional examination by a licensed veterinarian. As a rule, both cats and dogs must be free of fleas and ticks, and have a health certificate that was issued by the country of residence.



Dogs must also be free of evidence of diseases that could be communicable to humans. Puppies must be confined at a place of the owner's choosing, which can be a private residence, until they are three months old and then they must be vaccinated against rabies. The puppy will then have to stay in confinement for another 30 days following the vaccination.

Dogs older than three months must get a rabies vaccination at least 30 days before they come to the United States and must be accompanied by a valid rabies vaccination certificate if coming from a country that is not rabies-free. This certificate should identify the dog, show the date of vaccination, the date it expires (there are one-year and three-year vaccinations), and be signed by a licensed veterinarian. If the certificate does not have an expiration date, CBP will accept it as long as the dog was vaccinated 12 months or less before coming to the United States. Dogs coming from rabies free countries do not have to be vaccinated.

Birds may be imported as pets as long as you comply with APHIS and U.S. Fish and Wildlife requirements. These requirements may include quarantining the birds at one of the three APHIS' Animal Import Centers at your expense. You must make advance reservations at the quarantine facility. If you intend to import a bird, call APHIS' National Center for Import and Export at (301) 734-8364 for more information.

In any case, birds may only be imported through ports of entry where a USDA port veterinarian is on duty; and you must make arrangements in advance to have the bird examined by a USDA port veterinarian at the first U.S. port of entry. There is a minimum user fee for this service of \$23.00 based on an hourly rate of \$76/hour. For more information, contact the USDA, APHIS, Veterinary Services, National Center for Import and Export (NCIE), 4700 River Road, Riverdale, MD 20737; call (301) 734-8364; or visit the APHIS web site at www.aphis.usda.gov/travel/pets.html (APHIS Travel Web (Pets)).

Other common pets such as rabbits, ferrets, hamsters, gerbils, and guinea pigs may be imported if

they are in good health. The importation of reptiles and invertebrates is restricted, please contact the U.S. Fish and Wildlife Service for additional guidance. Most species of snails are not admissible. Contact APHIS for additional information.



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Plants and Seeds

Some plants, cuttings, seeds that are capable of propagation, unprocessed plant products, and certain endangered species are allowed into the United States but require import permits; some are prohibited entirely. Threatened or endangered species that are permitted must have export permits from the country of origin.

Every single plant or plant product including handcraft items made with straw, must be declared to the CBP officer and must be presented for CBP inspection, no matter how free of pests it appears to be. For information write to USDA-APHIS-PPQ, 4700 River Road, Riverdale, MD 20737; call (301) 734-8645; or visit the APHIS web site at ([APHIS Plant Import](#)) .

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Soil

Soil is considered the loose surface material of the earth in which plants, trees, and scrubs grow. In most cases, the soil consists of disintegrated rock with an admixture of organic material and soluble salts. Soil is prohibited entry unless accompanied by an import permit. Soil must be declared and the permit must be verified.

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Textiles and Clothing

In general, there is no limit to how much fabric and clothing you can bring back as long as it is for your personal use or as gifts. If you have exceeded your personal exemption, you may have to pay duty on the items Unaccompanied personal shipments (packages that are mailed or shipped), however, *may* be subject to limitations on amount.

On January 1, 2005, quotas for all countries that are part of the World Trade Organization (WTO) will be eliminated. There are still some countries, like Vietnam, that are not part of the WTO that have quotas in place for commercial shipments. These countries may require an additional document called a "visa" accompany the shipment.

China could have limits on particular garments called "safeguards." It is recommended that you contact a CBP import specialist in your area or at the port where you plan to import to determine what countries are subject to quotas and what products from China are subject to safeguards.

There may be additional documentation required for textiles from other countries such as the African countries that require a visa to be placed on a commercial invoice in order to get duty-free treatment. There may also be a certificate of eligibility document requirement to get duty-free treatment under many of the free trade agreements that are negotiated between the United States and the foreign government. These are not admissibility documents, but allow you to import your garments duty-free, provided certain conditions are met.

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a CBP recorded registered trademark , and restricted gray market articles (goods bearing genuine marks not intended for U.S. importation for which CBP granted gray market protection) are subject to detention and seizure.

However, travelers arriving in the United States may be permitted an exemption and allowed to import one article of each type, which must accompany the person, bearing a counterfeit, confusingly similar or restricted gray market trademark, provided that the article is for personal use and is not for sale.

This exemption may be granted not more than once every 30 days. The arriving passenger may retain one article of each type accompanying the person. For example, an arriving person who has three purses, whether each bears a different infringing trademark, or whether all three bear the same infringing trademark, is permitted only one purse. If the article imported under the personal exemption provision is sold within one year after the date of importation, the article or its value is subject to forfeiture.

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