

**SENATE AMENDMENT 11,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

June 30, 1999 – Offered by Senators ZIEN, HUELSMAN, DRZEWIECKI, LAZICH, PANZER and ROESSLER.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1431, line 11: after that line insert:

3 “SECTION 3113f. 895.75 (title) of the statutes is amended to read:

4 **895.75 (title) Physical injury, emotional distress, loss or damage**
5 **suffered by members of certain groups or owners of certain property.”.**

6 **2.** Page 1435, line 8: after that line insert:

7 “SECTION 3161p. 938.34 (14d) (title) of the statutes is amended to read:

8 938.34 (14d) (title) HATE VIOLATIONS; VIOLATIONS INVOLVING A U.S. OR STATE FLAG.

9 SECTION 3161q. 938.34 (14d) (d) of the statutes is amended to read:

10 938.34 (14d) (d) That the juvenile participate in an educational program under
11 sub. (7n) that includes sensitivity training or training in diversity, if the violation
12 was committed under circumstances specified in s. 939.645 (1) (b).

1 **SECTION 3161r.** 938.34 (14d) (e) of the statutes is created to read:

2 938.34 **(14d)** (e) That the juvenile participate in an educational program that
3 teaches the history of the U.S. flag and the Wisconsin state flag and the significance
4 of those flags to the nation and the state, if the violation was committed under
5 circumstances specified in s. 939.645 (1m) (b) 2.”.

6 **3.** Page 1436, line 16: after that line insert:

7 “**SECTION 3182e.** 939.645 (1m) of the statutes is created to read:

8 939.645 **(1m)** (a) In this subsection, “flag” has the meaning given in s. 947.07
9 (1).

10 (b) If a person does all of the following, the penalties for the underlying crime
11 are increased as provided in sub. (2):

12 1. Commits a crime under chs. 939 to 948.

13 2. While committing the crime under subd. 1., intentionally destroys, damages
14 or mutilates a flag or intentionally urinates, defecates or expectorates upon a flag.

15 **SECTION 3182f.** 939.645 (2) (a) of the statutes is amended to read:

16 939.645 **(2)** (a) If the crime committed under sub. (1) or (1m) is ordinarily a
17 misdemeanor other than a Class A misdemeanor, the revised maximum fine is
18 \$10,000 and the revised maximum period of imprisonment is one year in the county
19 jail.

20 **SECTION 3182g.** 939.645 (2) (b) of the statutes is amended to read:

21 939.645 **(2)** (b) If the crime committed under sub. (1) or (1m) is ordinarily a
22 Class A misdemeanor, the penalty increase under this section changes the status of
23 the crime to a felony and the revised maximum fine is \$10,000 and the revised
24 maximum period of imprisonment is 2 years.

1 **SECTION 3182h.** 939.645 (2) (c) of the statutes is amended to read:

2 939.645 **(2)** (c) If the crime committed under sub. (1) or (1m) is a felony, the
3 maximum fine prescribed by law for the crime may be increased by not more than
4 \$5,000 and the maximum period of imprisonment prescribed by law for the crime
5 may be increased by not more than 5 years.

6 **SECTION 3182i.** 939.645 (3) of the statutes is amended to read:

7 939.645 **(3)** This section provides for the enhancement of the penalties
8 applicable for the underlying crime. The court shall direct that the trier of fact find
9 a special verdict as to all of the issues specified in sub. (1) or (1m), whichever is
10 applicable.

11 **SECTION 3182j.** 939.645 (4) of the statutes is renumbered 939.645 (4) (a) and
12 amended to read:

13 939.645 **(4)** (a) ~~This section~~ Subsection (1) does not apply to any crime if proof
14 of race, religion, color, disability, sexual orientation, national origin or ancestry or
15 proof of any person's perception or belief regarding another's race, religion, color,
16 disability, sexual orientation, national origin or ancestry is required for a conviction
17 for that crime.

18 **SECTION 3182k.** 939.645 (4) (b) of the statutes is created to read:

19 939.645 **(4)** (b) Subsection (1m) does not apply to any crime if proof of
20 destruction or mutilation of a flag, damage to a flag or urination, defecation or
21 expectoration upon a flag is required for a conviction for that crime.

22 **SECTION 3182L.** 943.012 (5) of the statutes is created to read:

23 943.012 **(5)** A flag, as defined in s. 947.07 (1).”.

24 **4.** Page 1439, line 7: after that line insert:

1 “SECTION 3194z. 947.07 of the statutes is created to read:

2 **947.07 Causing violence or breach of the peace by damaging or**
3 **destroying certain flags. (1)** In this section, “flag” means any of the following:

4 (a) A flag of the United States consisting of horizontal stripes, alternately
5 colored red and white, and a union of any number of white stars on a blue field.

6 (b) A Wisconsin state flag under s. 1.08 (1) or any flag that may be used as a
7 state flag under s. 1.08 (2).

8 (c) Any copy, picture or representation of a flag specified in par. (a) or (b).

9 **(2)** Whoever destroys, damages or mutilates a flag, or urinates, defecates or
10 expectorates upon a flag, with the intent to cause imminent violence or a breach of
11 the peace under circumstances in which the actor knows that his or her conduct is
12 likely to cause violence or a breach of the peace is guilty of a Class E felony.”.

13 **5.** Page 1603, line 24: after that line insert:

14 “(3z) **CRIMES AFFECTING CERTAIN FLAGS.** The treatment of sections 938.34 (14d)
15 (d) and (e), 939.645 (1m), (2) (a), (b) and (c), (3) and (4) (b), 943.012 (5) and 947.07 of
16 the statutes first applies to offenses occurring on the effective date of this
17 subsection.”.

18 (END)