

(H. B. 340)

(No. 93)

(Approved August 26, 2005)

AN ACT

To add Sections 5 and 6 of Act No. 1 of July 24, 1952, as amended, to provide for the joint use of the flags of the United States of America and of Puerto Rico by the three (3) branches of the Government, the state and municipal public agencies in all installations owned by the Commonwealth, its municipalities and public corporations; and to provide the minimum requirements to be contained in the Regulations of the Department of State on the use of the flags.

STATEMENT OF MOTIVES

Due to their deeply symbolic meaning, the flags of all countries warrant a special degree of acknowledgement and respect. As history unfolds, the flag of a political state becomes not only the emblem of its government, but an extension of the people that have established it.

In July 25, 1898, the flag of the United States of America arrived in Puerto Rico as a sign of a new era in our history. The chronicles of the time describe that Americans and the display of their flag were given a warm reception by the people that welcomed them. As United States citizens, we adopted the American flag in 1917. For the past fifty years, it has been regarded, jointly and inseparably, and as legitimately as the Puerto Rican flag, as the official emblem of Puerto Rico as a body politic. Act No. 1 of July 24, 1952, corrected a historical injustice, by recognizing the official rank of the Puerto Rican flag, without affecting the official status of the flag of the United States of America.

Throughout those fifty-three (53) years, the government system in effect has existed under a Constitution in which the People of Puerto Rico have stated that

they consider United States citizenship and the co-existence of the two most important cultures of the Americas as an essential asset in their daily lives; as well as the fact that all public officers, upon assuming their positions, shall take an oath of allegiance to the Constitution and the laws of the United States. In the implementation of this constitutional mandate, Section 186 of our Political Code specifically provides that all public officials in Puerto Rico shall take the following oath:

“[...] will support and defend the Constitution of the United States and the Constitution and laws of the Commonwealth of Puerto Rico against all enemies, foreign and domestic, that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion [...]”

Act No. 1, *supra*, simply defines which flag shall be officially acknowledged as the flag of the Commonwealth. It does not create a categorical or exclusionary provision regarding the use or non-use thereof, nor on its relationship with the United States flag. Instead, it delegates the adoption of regulations to the Department of State. In those days of high civility and refinement in political debate, Puerto Ricans of the stature of Ramos Antonini, Muñoz Marín, Fernós Isern, García Méndez, Luis Ferré and Leopoldo Figueroa never imagined that it would be necessary to establish the duty to maintain both flags under equal conditions or to force the rendering of due respect thereto by law or Constitution; let alone that a public officer might be the one to fail to comply with that principle in open demonstration of his/her disrespect.

All national and state flags deserve the highest respect. In many jurisdictions, this concept leads to laws that are so restrictive that common citizens are deprived of their use. The constitutional legal system of the United States and Puerto Rico, to the contrary, sustain that the flag belongs to all and that no one can deprive

citizens from its use. This entails tolerating that our flags may be used in ways that sometimes may seem to be in bad taste, but which reflect the fondness of the people. Even so, it is important for all persons to acknowledge and honor the flags, especially the flag of the nation of which they are a citizen. Even from positions of dissidence or opposition, rude treatment and an attitude of disrespect toward national symbols reveals more about the character of the person who displays them than the supposed justice of the cause that leads them to do behave in such a manner. Public officers should be the first to give a good example.

Act No. 2 of July 24, 1952, which deals with the topic of the anthem of the Commonwealth, acknowledges and provides that in every official act and ceremony of the Government of Puerto Rico both “La Borinqueña” and “The Star Spangled Banner” shall be played. This type of equal acknowledgement and acceptance extends to our flags by means of this Act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-A new Section 5 is hereby added to Act No. 1 of July 24, 1952, as amended, to read as follows:

“Section 5.-The three (3) branches of Commonwealth Government, the municipalities, commonwealth and municipal public corporations, as well as any official of said entities in the discharge of his/her official duties shall display the flags of the United States of America and Puerto Rico simultaneously and with equal prominence in any building under their ownership or control.”

Section 2.-A new Section 6 is hereby added to Act No. 1 of July 24, 1952, as amended, to read as follows:

“Section 6.-The regulations to be promulgated by the Department of State on the use of the flag, as provided in Section 3 of this Act, shall include the following provisions, without it being a limitation upon the authority of the

Secretary to promulgate necessary additional rules:

- (a) Any display of the flag of the Commonwealth of Puerto Rico by an agency of any of the three (3) branches of the State Government, the Municipal Government, or by any public corporation shall be performed jointly and with equality of prominence with the flag of the United States of America and vice-versa, subject to the rules of protocol established by the Laws of the United States, as set forth in Title 4 of the United States Code, Sections 1 through 10.
- (b) For display in front of public buildings or from any part thereof, both the flag of the United States of America and the Puerto Rican flag shall be displayed on adjacent staffs and at the same height. They shall be placed in such a way that the upper edges are displayed to the peak of their respective mast (unless it has been ordered to display them at half-mast as a symbol of mourning), and they shall be kept from becoming tangled on equipment or dragging over surfaces. When not unfurled on flagpoles, both flags shall be placed in such a manner that they are at the same height, completely visible and do not tangle with or drag over any equipment or surfaces. The United States flag shall always be placed to the right of the Puerto Rican flag.
- (c) Flagpoles that are designated for the display of the United States flag and the Puerto Rican flag at government dependencies shall be used exclusively for such purpose. No other flag shall be displayed between the United States flag and the Puerto Rican flag. Whenever the flags of municipalities, agencies, other states, countries, entities or organizations are displayed, they shall be placed to the left of the Puerto Rican flag, following the order of protocol established by

regulations.

- (d) In all official ceremonies for unveiling statues and monuments, or for the dedication of buildings to honor the memory of illustrious persons, both flags shall be displayed in equal conditions. Neither flag shall ever be used as a veil or covering for any monument. In all ceremonies or parades of the National Guard, the Puerto Rico Police, or any other law enforcement agency of Puerto Rico, both flags shall be displayed and carried together.
- (e) All government and municipal entities, agencies, public corporations and officers who use any or both flags in official functions shall do so pursuant to the regulations that govern the use and display of each flag.”

Section 3.-If any part, paragraph or Section of this Act is ruled null or void by a court with competent jurisdiction, the judgment rendered to such effect shall be limited to the part, paragraph or Section which has been ruled null or void.

Section 4.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 93 (H.B. 340) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to add Sections 5 and 6 of Act No. 1 of July 24, 1952, as amended, to provide for the joint use of the flags of the United States of America and of Puerto Rico by the three (3) branches of the Government, the state and municipal public agencies in all installations owned by the Commonwealth, its municipalities and public corporations; and to provide the minimum requirements to be contained in the Regulations of the Department of State on the use of the flags,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 16th of May of 2006.

Francisco J. Domenech
Director

