

AMENDMENT TO H.R. 5658
OFFERED BY MR. AKIN OF MISSOURI

At the end of title V, add the following new section:

1 **SEC. 5___.** **CRIMINAL OFFENCES REGARDING INTER-**
2 **ERENCE WITH MILITARY RECRUITING.**

3 (a) **FINDINGS.**—Congress makes the following find-
4 ings:

5 (1) According to Article I, Section 8 of the
6 United States Constitution, Congress has the power
7 to raise and support armies and to provide and
8 maintain a navy; and to make all laws necessary and
9 proper to carry out these powers.

10 (2) The First Amendment states: “Congress
11 shall make no law respecting an establishment of re-
12 ligion, or prohibiting the free exercise thereof; or
13 abridging the freedom of speech, or of the press; or
14 the right of the people to peaceably assemble, and to
15 petition the government for a redress of griev-
16 ances.”.

17 (3) According to the United States Supreme
18 Court, the right to peaceable assembly is a right
19 similar to those of free speech and free press and is
20 equally essential. (De Jonge v. Oregon).

1 (4) The key word being “peaceably”, the First
2 Amendment protects peaceful, not violent, assembly
3 and protest.

4 (5) The successful recruiting of men and
5 women to serve in the armed services of the United
6 States is fundamental to the security of the Amer-
7 ican people.

8 (6) Serving in the military is highly honorable,
9 and often requires great sacrifice and courage by the
10 men and women of our armed services.

11 (7) United States military recruiters have been
12 subject to an escalating number of acts of vandalism
13 and violent protest, including but not limited to:

14 (A) March 2003: Anti-war protestors in
15 Ithaca, N.Y., target a recruitment center that
16 had been hit before with Molotov cocktails. On
17 St. Patrick’s Day, wielding cups of their own
18 blood, they entered a Lansing military recruit-
19 ment office and splashed their blood over re-
20 cruitter posters, military cutouts and the Amer-
21 ican flag.

22 (B) January 20, 2005: At Seattle Central
23 Community College, Army recruiter Sgt. Jeff
24 Due and his colleague Sgt. 1st Class Douglas
25 Washington were hounded by an angry mob of

1 approximately 500 anti-war students. The re-
2 cruiter's table was destroyed; their handouts,
3 torn apart. Protesters threw water bottles and
4 newspapers at the soldiers. A far-left anti-war
5 group had been agitating to kick the recruiters
6 off campus. The college administration refused
7 to punish the radicals.

8 (C) January 31, 2005: Recruiters in Man-
9 hattan reported that a door to their office had
10 been beaten in. Various anti-war symbols were
11 scrawled in red paint on the building. On the
12 same day, New York police arrested a young
13 Manhattan College junior and charged him with
14 throwing a burning rag into an Army recruiting
15 station and ruining the door locks with super
16 glue.

17 (D) February 1, 2005: At a South Toledo,
18 Ohio, recruitment center, protesters hurled ma-
19 nure all over the building. They broke windows
20 and sprayed vulgar graffiti on office property.

21 (E) March 2005: In East Orange, N.J.,
22 young anti-military protesters shattered the
23 windows of an Army recruitment station and a
24 neighboring Navy office.

1 (F) March/April 2005: Anti-war protestors
2 at New York's Bronx Community College shut
3 down several military recruitment sessions. At
4 UC Santa Cruz, protestors drove recruiters off
5 campus after an hour-long demonstration of
6 shouting and window banging.

7 (G) May 2005: Student protestors
8 swarmed the booths of the U.S. Army Corps of
9 Engineers and the USAF at a San Francisco
10 State University career fair. In Wisconsin, an
11 Air Force ROTC information day was canceled
12 due to threats by an anti-war group at the Uni-
13 versity of Wisconsin-Madison.

14 (H) April 2006: UC Santa Cruz students
15 ambushed military recruiters. Vandals at the
16 University of North Carolina at Chapel Hill
17 tossed cans of red paint in front of an ROTC
18 office and spray-painted vulgarities all over its
19 doors. University of Minnesota students splat-
20 tered red paint all over an Army recruiting sta-
21 tion.

22 (I) December 2006: Protesters in Law-
23 rence, Kansas crippled business at an Army/
24 Navy recruitment center, where workers' car

1 tires were slashed and bomb-proof glass had to
2 be installed.

3 (J) January 2007: Pittsburgh protestors
4 shut down a recruitment station for a day,
5 wielding signs calling recruiters “child preda-
6 tors”.

7 (K) March 2007: Vandals broke into a Mil-
8 waukee recruitment station wielding crowbars.

9 (L) July 2007: A protestor in Bremerton,
10 Wash., slashed tires of Army recruiting vehicles
11 to protest the Iraq war because he “hated the
12 military”. In Maryland, vandals smashed a
13 Rockville Air Force career center. In Lufkin,
14 Texas, Navy recruiters were the targets of van-
15 dals who keyed their cars, smashed their win-
16 dows and shot at their vehicles with “what ap-
17 peared to be a high-powered pellet gun”.

18 (M) August 2007: In Stamford, Conn., a
19 protestor twice left a fake bomb package at a
20 military recruitment office.

21 (N) September 2007: An anti-war group
22 calls on followers to commit fraud to interfere
23 with military recruiters. Anti-war protestors
24 shut down the Times Square recruitment sta-
25 tion.

1 (O) October 2007: An anti-war group de-
2 faces the Berkeley recruitment office.

3 (P) January 2008: Protesters chain them-
4 selves to the Berkeley recruiting center to shut
5 it down, and vandalize the windows with bloody
6 handprints and signs branding recruiters
7 “death pimps”.

8 (Q) February 2008: Vandals trash the re-
9 cruiting station at 14th and L Streets in Wash-
10 ington, D.C., which has been subjected to mul-
11 tiple attacks.

12 (R) March 2008: A bomb goes off at the
13 Times Square recruitment station.

14 (8) In the face of escalating threats against
15 military recruiters and facilities, Congress must take
16 steps to increase protection of military recruiters
17 and those who wish to serve their country in uni-
18 form.

19 (b) OFFENSE.—Chapter 67 of title 18, United States
20 Code, is amended by adding at the end the following:

21 **“§ 1389. Interfering with military recruiting**

22 “(a) Whoever—

23 “(1) by force or threat of force or by physical
24 obstruction, injures, intimidates or interferes with or
25 attempts to injure, intimidate or interfere with any

1 person because that person is or has been providing
2 Federal or State military recruiting services;

3 “(2) by force or threat of force or by physical
4 obstruction, injures, intimidates or interferes with or
5 attempts to injure, intimidate or interfere with any
6 person lawfully exercising or seeking to exercise
7 their right to inquire about or volunteer for service
8 in the active or reserve armed services of the United
9 States or the National Guard of any State; or

10 “(3) intentionally damages or destroys the
11 property of a facility, or attempts to do so, because
12 such facility houses or hosts military recruiting serv-
13 ices;

14 shall be punished as provided in subsection (b).

15 “(b) The punishment for an offense under this sec-
16 tion is—

17 “(1) in the case of a first offense, a fine under
18 this title or imprisonment for not more than one
19 year, or both; and

20 “(2) in the case of a second or subsequent of-
21 fense after a prior conviction under this section, a
22 fine under this title or imprisonment for not more
23 than 3 years, or both.

24 “(c) In this section—

1 “(1) the term ‘facility’ includes the building or
2 structure in which recruiting is conducted;

3 “(2) the term ‘interfere with’ means to restrict
4 any person’s ability or freedom to easily enter or
5 leave a recruiting office;

6 “(3) the term ‘intimidate’ means to place a per-
7 son in reasonable apprehension of bodily harm to
8 that person or to another;

9 “(4) the term ‘physical obstruction’ means ren-
10 dering impassable entrance into or exiting from a fa-
11 cility that provides military recruiting services, or
12 rendering passage to or from such a facility unrea-
13 sonably difficult or hazardous;

14 “(5) the term ‘military recruiting services’
15 means the provision by representatives of the Gov-
16 ernment or of the armed services, to individuals who
17 might wish to serve in the armed services, of infor-
18 mation about military service, assistance in selecting
19 a branch of military service, enlistment information,
20 or any other necessary assistance needed to join the
21 armed services of the United States; and

22 “(6) the term ‘State’ means a State of the
23 United States, the District of Columbia, and any
24 commonwealth, territory, or possession of the United
25 States.”.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 67 of title 18, United States
3 Code, is amended by adding at the end the following new
4 item:

“1389. Interfering with military recruiting.”.

5 (d) DIRECTION TO SENTENCING COMMISSION.—The
6 United States Sentencing Commission, in establishing or
7 amending sentencing guidelines with respect to offenses
8 under the section added to title 18 by this Act, shall con-
9 sider the threat posed to national security and the national
10 defense by these offenses an aggravating factor so that
11 the base levels for punishment for these offenses is greater
12 than those for otherwise similar offenses.

