

House Bill 1463

By: Representative Ralston of the 6<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to  
2 penalties for violation of Code Sections 16-8-2 through 16-8-9, so as to increase the penalty  
3 for an offender who is a fiduciary or officer or employee of a government or a financial  
4 institution; to provide an effective date; to provide for applicability; to repeal conflicting  
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to penalties for  
9 violation of Code Sections 16-8-2 through 16-8-9, is amended by striking subsection (a) of  
10 said Code section and inserting in lieu thereof a new subsection (a) to read as follows:

11 "(a) A person convicted of a violation of Code Sections 16-8-2 through 16-8-9 shall be  
12 punished as for a misdemeanor except:

13 (1) If the property which was the subject of the theft exceeded \$500.00 in value, by  
14 imprisonment for not less than one nor more than ten years or, in the discretion of the trial  
15 judge, as for a misdemeanor;

16 (2) If the property was any amount of anhydrous ammonia, as defined in Code Section  
17 16-11-111, by imprisonment for not less than one nor more than ten years, a fine not to  
18 exceed the amount provided by Code Section 17-10-8, or both;

19 (3) If the property was taken by a fiduciary in breach of a fiduciary obligation or by an  
20 officer or employee of a government or a financial institution in breach of his or her  
21 duties as such officer or employee, by imprisonment for not less than one nor more than  
22 ~~15~~ 20 years, a fine not to exceed the amount provided by Code Section 17-10-8, or both;

23 (4) If the crime committed was a violation of Code Section 16-8-2 and if the property  
24 which was the subject of the theft was a memorial to the dead or any ornamentation,  
25 flower, tree, or shrub placed on, adjacent to, or within any enclosure of a memorial to the  
26 dead, by imprisonment for not less than one nor more than three years. Nothing in this

1 paragraph shall be construed as to cause action taken by a cemetery, cemetery owner,  
 2 lessee, trustee, church, religious or fraternal organization, corporation, civic organization,  
 3 or club legitimately attempting to clean, maintain, care for, upgrade, or beautify a grave,  
 4 gravesite, tomb, monument, gravestone, or other structure or thing placed or designed for  
 5 a memorial ~~of~~ to the dead to be a criminal act;

6 (5)(A) The provisions of paragraph (1) of this subsection notwithstanding, if the  
 7 property which was the subject of the theft was a motor vehicle or was a motor vehicle  
 8 part or component which exceeded \$100.00 in value or if the theft or unlawful activity  
 9 was committed in violation of subsection (b) of Code Section 10-1-393.5 or in violation  
 10 of subsection (b) of Code Section 10-1-393.6 or while engaged in telemarketing  
 11 conduct in violation of Chapter 5B of Title 10, by imprisonment for not less than one  
 12 nor more than ten years or, in the discretion of the trial judge, as for a misdemeanor;  
 13 provided, however, that any person who is convicted of a second or subsequent offense  
 14 under this paragraph shall be punished by imprisonment for not less than one year nor  
 15 more than 20 years.

16 (B) Subsequent offenses committed under this paragraph, including those which may  
 17 have been committed after prior felony convictions unrelated to this paragraph, shall  
 18 be punished as provided in Code Section 17-10-7;

19 (6)(A) As used in this paragraph, the term:

20 (i) 'Destructive device' means a destructive device as such term is defined by Code  
 21 Section 16-7-80.

22 (ii) 'Explosive' means an explosive as such term is defined by Code Section 16-7-80.

23 (iii) 'Firearm' means any rifle, shotgun, pistol, or similar device which propels a  
 24 projectile or projectiles through the energy of an explosive.

25 (B) If the property which was the subject of the theft ~~offense~~ was a destructive device,  
 26 explosive, or firearm, by imprisonment for not less than one nor more than ten years;  
 27 or

28 (7) If the property which was the subject of the theft is a grave marker, monument, or  
 29 memorial to one or more deceased persons who served in the military service of this state,  
 30 the United States of America or any of the states thereof, or the Confederate States of  
 31 America or any of the states thereof, or a monument, plaque, marker, or memorial which  
 32 is dedicated to, honors, or recounts the military service of any past or present military  
 33 personnel of this state, the United States of America or any of the states thereof, or the  
 34 Confederate States of America or any of the states thereof, and if such grave marker,  
 35 monument, memorial, plaque, or marker is privately owned or located on privately owned  
 36 land, by imprisonment for not less than one nor more than three years if the value of the  
 37 property which was the subject of the theft is \$300.00 or less, and by imprisonment for

1 not less than three years ~~and not~~ nor more than five years if the value of the property  
2 which was the subject of the theft is more than \$300.00."

3 **SECTION 2.**

4 This Act shall become effective on July 1, 2004, and shall apply to an offense committed on  
5 or after that date.

6 **SECTION 3.**

7 All laws and parts of laws in conflict with this Act are repealed.