

House Bill 76

By: Representatives Day of the 163rd, Horne of the 71st, and Neal of the 1st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to
2 emergency management, so as to require permission for use of the Georgia Office of
3 Homeland Security's and the Georgia Emergency Management Agency's nomenclature and
4 symbols, to provide for definitions; to provide for related matters; to provide an effective
5 date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency
9 management, is amended by inserting a new article immediately following Article 7 to read
10 as follows:

11 "ARTICLE 8

12 38-3-130.

13 This article shall be known and may be cited as the 'Georgia Office of Homeland Security
14 and Georgia Emergency Management Agency Nomenclature Act of 2007.'

15 38-3-131.

16 As used in this article, the term:

17 (1) 'Badge' means any official badge, identification card, or security pass used by
18 members of the Georgia Office of Homeland Security or Georgia Emergency
19 Management Agency, either in the past or currently.

20 (2) 'Director of the affected agency' means the director of the Georgia Office of
21 Homeland Security or the director of the Georgia Emergency Management Agency where
22 the agency currently uses or formerly used the symbol, emblem, badge, seal, or other
23 nomenclature utilized or displayed in violation of this article.

1 (3) 'Emblem' means any official patch or other emblem worn currently or formerly or
2 used by the Georgia Office of Homeland Security or the Georgia Emergency
3 Management Agency to identify the agency, a division of the agency, or employees of
4 the agency.

5 (4) 'Person' means any person, corporation, organization, or political subdivision of the
6 State of Georgia.

7 (5) 'Seal' means any official symbol, mark, or abbreviation which represents and is used,
8 currently or in the past, by the Georgia Office of Homeland Security, the Georgia
9 Emergency Management Agency, or the Georgia Information Sharing and Analysis
10 Center, or any other division or operation under the command of the Georgia Office of
11 Homeland Security or the Georgia Emergency Management Agency to identify the
12 agency, a division of the agency, or employees of the agency.

13 (6) 'Willful violator' means any person who knowingly violates the provisions of this
14 article. Any person who violates this article after being advised in writing by the director
15 of the affected agency that such person's activity is in violation of this article shall be
16 considered a willful violator and shall be considered in willful violation of this article.
17 Any person whose agent or representative is a willful violator and who has knowledge
18 of the violation by the agent or representative shall also be considered a willful violator
19 and in willful violation of this article unless, upon learning of the violation, he or she
20 immediately terminates the agency or other relationship with such violator.

21 38-3-132.

22 Whoever, except with the written permission of the director of the Georgia Office of
23 Homeland Security, knowingly uses the words 'Georgia Office of Homeland Security,'
24 'Office of Homeland Security,' 'OHS,' 'Georgia Information Sharing and Analysis Center,'
25 or 'GISAC' in referring to Georgia's Office of Homeland Security or Georgia's Information
26 Sharing and Analysis Center in connection with any advertisement, circular, book,
27 pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production
28 in a manner reasonably calculated to convey the impression that such advertisement,
29 circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or
30 other production is approved, endorsed, or authorized by or associated with the Georgia
31 Office of Homeland Security or Georgia Information Sharing and Analysis Center shall be
32 in violation of this article.

33 38-3-133.

34 Whoever, except with the written permission of the director of the Georgia Emergency
35 Management Agency, knowingly uses the words 'Georgia Emergency Management

1 Agency,' 'Emergency Management Agency,' or 'GEMA' in referring to Georgia's
2 Emergency Management Agency in connection with any advertisement, circular, book,
3 pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production
4 in a manner reasonably calculated to convey the impression that such advertisement,
5 circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or
6 other production is approved, endorsed, or authorized by or associated with the Georgia
7 Emergency Management Agency shall be in violation of this article.

8 35-3-134.

9 Any person who uses or displays any symbol, including any emblem, seal, or badge,
10 current or historical, used by the Georgia Office of Homeland Security or the Georgia
11 Emergency Management Agency without written permission from the director of the
12 affected agency shall be in violation of this article.

13 38-3-135.

14 Any person seeking permission to use or display the nomenclature or symbols of the
15 Georgia Office of Homeland Security or the Georgia Emergency Management Agency may
16 request such permission in writing to the director of the affected agency. The director shall
17 serve notice on the requesting party within 15 calendar days after receipt of the request of
18 his or her decision on whether the person may use the nomenclature or the symbol. If the
19 commissioner does not respond within the 15 day time period, then the request is presumed
20 to have been denied. The grant of permission under this article shall be at the discretion of
21 the director of the affected agency and under such conditions as the director may impose.

22 38-3-136.

23 Whenever there shall be an actual or threatened violation of this article, the director of the
24 affected agency shall have the right to apply to the Superior Court of Fulton County or to
25 the superior court of the county of residence of the violator for an injunction to restrain the
26 violation.

27 38-3-137.

28 In addition to any other relief or sanction for a violation of this article, the director of the
29 affected agency shall be entitled to collect a civil penalty in the amount of \$1,000.00 for
30 each violation from a willful violator. Further, the director of the affected agency shall be
31 entitled to recover reasonable attorney's fees for bringing any action against a willful
32 violator.

1 38-3-138.

2 Any person who has given money or any other item of value to another person due in part
3 to such person's use of agency nomenclature or symbols in violation of this article may
4 maintain a suit for damages against the violator. Where it is proven that the violation was
5 willful, the victim shall be entitled to recover treble damages, punitive damages, and
6 reasonable attorney's fees.

7 38-3-139.

8 Any willful violator shall be guilty of a felony and upon conviction thereof shall be subject
9 to a fine of not less than \$1,000.00 nor more than \$10,000.00 or to imprisonment for not
10 less than one and not more than five years, or both. Each violation shall constitute a
11 separate offense."

12 **SECTION 2.**

13 This Act shall become effective upon its approval by the Governor or upon its becoming law
14 without such approval.

15 **SECTION 3.**

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