

House Bill 1201

By: Representatives Day of the 163<sup>rd</sup>, Neal of the 1<sup>st</sup>, and Stephens of the 164<sup>th</sup>

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 Emergency  
3 Management Agency's nomenclature and symbols; to provide a short title; to provide for  
4 liabilities and penalties; to provide that a willful violation shall be a misdemeanor; to provide  
5 for definitions; to provide for related matters; to provide an effective date; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 "ARTICLE 9

12 38-3-140.

13 This article shall be known and may be cited as the 'Georgia Emergency Management  
14 Agency Nomenclature Act of 2008.'

15 38-3-141.

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 Emergency Management Agency, either in the past or currently.

19 (2) 'Director' means the director of the Georgia Emergency Management Agency.

20 (3) 'Emblem' means any official patch or other emblem worn currently or formerly or  
21 used by the Georgia Emergency Management Agency to identify the agency, a division  
22 of the agency, or employees of the agency.

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

3 (5) 'Seal' means any official symbol, mark, or abbreviation which represents and is used,  
4 currently or in the past, by the Georgia Emergency Management Agency or any other  
5 division or operation under the command of the Georgia Emergency Management  
6 Agency to identify the agency, a division of the agency, or employees of the agency.

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

15 38-3-142.

16 Whoever, except with the written permission of the director, knowingly uses the words  
17 'Georgia Emergency Management Agency,' 'Emergency Management Agency,' or 'GEMA'  
18 in referring to Georgia's Emergency Management Agency in connection with any  
19 advertisement, circular, book, pamphlet, or other publication, play, motion picture,  
20 broadcast, telecast, or other production in a manner reasonably calculated to convey the  
21 impression that such advertisement, circular, book, pamphlet, or other publication, play,  
22 motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized  
23 by or associated with the Georgia Emergency Management Agency shall be in violation  
24 of this article.

25 35-3-143.

26 Any person who uses or displays any symbol, including any emblem, seal, or badge,  
27 current or historical, used by the Georgia Emergency Management Agency without written  
28 permission from the director shall be in violation of this article.

29 38-3-144.

30 Any person seeking permission to use or display the nomenclature or symbols of the  
31 Georgia Emergency Management Agency may request such permission in writing to the  
32 director. The director shall serve notice on the requesting party within 15 calendar days  
33 after receipt of the request of his or her decision on whether the person may use the  
34 nomenclature or the symbol. If the director does not respond within the 15 day time

1 period, then the request is presumed to have been denied. The grant of permission under  
2 this article shall be at the discretion of the director and under such conditions as the director  
3 may impose.

4 38-3-145.

5 Whenever there shall be an actual or threatened violation of this article, the director shall  
6 have the right to apply to the Superior Court of Fulton County or to the superior court of  
7 the county of residence of the violator for an injunction to restrain the violation.

8 38-3-146.

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

13 38-3-147.

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

19 38-3-148.

20 Any willful violator shall be guilty of a misdemeanor and upon conviction thereof shall be  
21 subject to a fine of not more than \$5,000.00 or to imprisonment for not more than 12  
22 months, or both. Each violation shall constitute a separate offense."

23 **SECTION 2.**

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

26 **SECTION 3.**

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