

House Bill 175

By: Representatives Shannon of the 84th, Jackson of the 64th, Scott of the 76th, Oliver of the 82nd, Anulewicz of the 42nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to the
2 state flag, seal, and other symbols, so as to prohibit the display of monuments, memorials,
3 plaques, markers, or memorabilia related to the Confederate States of America on public
4 property except for museums and Civil War battlefields; to remove reference to the
5 preservation and protection of the memorial graven upon the face of Stone Mountain; to
6 remove reference to display of the flag of the Confederate States of America from public
7 buildings or schools; to amend Code Section 1-4-20 of the Official Code of Georgia
8 Annotated, relating to Confederate History and Heritage Month, so as to remove references
9 to displays commemorating and honoring the history and culture of the confederacy; to
10 amend Part 4 of Article 6 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
11 relating to the Stone Mountain Memorial Association, so as to remove reference to the
12 confederate memorial; to remove provisions for the sale of confederate memorabilia by the
13 Stone Mountain Memorial Association; to provide for related matters; to provide an effective
14 date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to the state flag,
18 seal, and other symbols, is amended by revising subsections (b) and (c) of Code Section
19 50-3-1, relating to the description of the state flag, defacing public monuments, and
20 obstruction of Stone Mountain, as follows:

21 "(b)(1) It shall be unlawful for any person, firm, corporation, or other entity to mutilate,
22 deface, defile, or abuse contemptuously any publicly owned monument, plaque, marker,
23 or memorial which is dedicated to, honors, or recounts the military service of any past or
24 present military personnel of this state; or the United States of America or the several
25 states thereof, ~~or the Confederate States of America or the several states thereof~~; and no
26 officer, body, or representative of state or local government or any department, agency,

27 authority, or instrumentality thereof shall remove or conceal from display any such
 28 monument, plaque, marker, or memorial for the purpose of preventing the visible display
 29 of the same. A violation of this paragraph shall constitute a misdemeanor.

30 (2) No publicly owned monument or memorial erected, constructed, created, or
 31 maintained on the public property of this state or its agencies, departments, authorities,
 32 or instrumentalities in honor of the military service of any past or present military
 33 personnel of this state; ~~or the United States of America or the several states thereof; or the~~
 34 ~~Confederate States of America or the several states thereof~~ shall be relocated, removed,
 35 concealed, obscured, or altered in any fashion; provided, however, that appropriate
 36 measures for the preservation, protection, and interpretation of such monuments or
 37 memorials shall not be prohibited.

38 (3) Conduct prohibited by paragraphs (1) and (2) of this subsection shall be enjoined by
 39 the appropriate superior court upon proper application therefor.

40 (4) It shall be unlawful for any person, firm, corporation, or other entity acting without
 41 authority to mutilate, deface, defile, abuse contemptuously, relocate, remove, conceal, or
 42 obscure any privately owned monument, plaque, marker, or memorial which is dedicated
 43 to, honors, or recounts the military service of any past or present military personnel of
 44 this state; ~~or the United States of America or the several states thereof; or the Confederate~~
 45 ~~States of America or the several states thereof~~. Any person or entity who suffers injury
 46 or damages as a result of a violation of this paragraph may bring an action individually
 47 or in a representative capacity against the person or persons committing such violations
 48 to seek injunctive relief and to recover general and exemplary damages sustained as a
 49 result of such person's or persons' unlawful actions."

50 ~~"(c)(1) Any other provision of law notwithstanding, the memorial to the heroes of the~~
 51 ~~Confederate States of America graven upon the face of Stone Mountain shall never be~~
 52 ~~altered, removed, concealed, or obscured in any fashion and shall be preserved and~~
 53 ~~protected for all time as a tribute to the bravery and heroism of the citizens of this state~~
 54 ~~who suffered and died in their cause. Except as provided in paragraph (2) of this~~
 55 ~~subsection, no publicly or privately owned monument, memorial, plaque, marker, or~~
 56 ~~memorabilia dedicated to, honoring, or recounting the Confederate States of America, the~~
 57 ~~several states thereof, or the military service of military personnel thereof shall be~~
 58 ~~erected, constructed, created, displayed, or maintained on the public property of this state~~
 59 ~~or its agencies, departments, authorities, instrumentalities, counties, municipalities,~~
 60 ~~political subdivisions, or local authorities.~~

61 (2) Monuments, memorials, plaques, or markers related to the Confederate States of
 62 America, the several states thereof, or the military service of military personnel thereof
 63 may be displayed and maintained in museums owned or operated by the state or its

64 agencies, departments, authorities, instrumentalities, counties, municipalities, political
 65 subdivisions, or local authorities or within the boundaries of Civil War battlefields
 66 provided for in the State of Georgia Civil War Sites Heritage Plan adopted pursuant to
 67 Article 5 of Chapter 7 of this title.

68 (3) After July 1, 2020, conduct prohibited by paragraph (1) of this subsection shall be
 69 enjoined by the appropriate superior court upon proper application therefor, and the
 70 sovereign immunity of the state, its agencies, departments, authorities, instrumentalities,
 71 counties, municipalities, political subdivisions, and local authorities is waived to the
 72 extent necessary to effectuate this subsection.

73 (4) This subsection shall not provide a right of action or waive sovereign immunity in
 74 regard to any claim of injury or damage arising from the removal of a privately owned
 75 monument, memorial, plaque, marker, or memorabilia from public property pursuant to
 76 paragraph (1) of this subsection.

77 (5) Compliance or attempts to comply with paragraph (1) of this subsection shall not be
 78 violations of either subsection (e) of Code Section 16-7-21 or paragraph (7) of subsection
 79 (a) of Code Section 16-8-12."

80 **SECTION 2.**

81 Said chapter is further amended by revising Code Section 50-3-10, relating to use of flags
 82 for decorative or patriotic purposes, as follows:

83 "50-3-10.

84 Nothing in this article shall be construed to prevent the use of the flag of the United States
 85 or any flag, standard, color, shield, ensign, or other insignia of the State of Georgia ~~or of~~
 86 ~~the Confederate States of America~~ for decorative or patriotic purposes, either inside or
 87 outside of any residence, store, place of business, public building, or school building."

88 **SECTION 3.**

89 Code Section 1-4-20 of the Official Code of Georgia Annotated, relating to Confederate
 90 History and Heritage Month, is amended by repealing subsection (c).

91 **SECTION 4.**

92 Part 4 of Article 6 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
 93 relating to the Stone Mountain Memorial Association, is amended by revising paragraph (7)
 94 of Code Section 12-3-191, relating to definitions, as follows:

95 "(7) 'Project' means Stone Mountain and property adjacent thereto acquired by the
 96 association and all accommodations, utilities, facilities, services, and equipment
 97 necessary or convenient, and all property, real, personal, or mixed, used or useful,

98 including franchises and easements, in constructing, erecting, improving, remodeling,
99 developing, equipping, adding to, extending, maintaining, managing, and operating Stone
100 Mountain, located in DeKalb County, Georgia, and property adjacent thereto, as a
101 ~~Confederate memorial~~ and public recreational area, and the construction, improvement,
102 development, maintenance, management, operation, and extension of any part thereof,
103 as to which the association has undertaken or agreed to undertake any action permitted
104 by this part."

105 **SECTION 5.**

106 Said part is further amended by revising Code Section 12-3-192.1, relating to purposes of the
107 association, as follows:

108 "12-3-192.1.

109 The purposes of the Stone Mountain Memorial Association shall include:

- 110 (1) To preserve the natural areas situated within the Stone Mountain Park area; and
111 (2) To provide access to Stone Mountain for Georgia's citizens; ~~and~~
112 (3) ~~To maintain an appropriate and suitable memorial for the Confederacy."~~

113 **SECTION 6.**

114 Said part is further amended by repealing subsection (d) of Code Section 12-3-194.1, relating
115 to police and legislative powers of the association and the sale of confederate memorabilia.

116 **SECTION 7.**

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

119 **SECTION 8.**

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