

Senate Bill 608

By: Senator Mullis of the 53rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state
2 flag, seal, and other symbols, so as to expand the protections for monuments on public
3 property; to revise a definition; to provide for standing for interested persons, groups, or legal
4 entities to bring actions regarding such monuments; to provide for criminal liability; to
5 provide for damages and injunctive relief; to authorize the Attorney General and district
6 attorneys to represent the interests of monument owners and other interested persons, groups,
7 or legal entities in legal actions regarding such monuments; to waive state immunity for
8 certain causes of action; to provide for severability; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state flag, seal,
13 and other symbols, is amended by revising Code Section 50-3-1, relating to description of
14 state flag, militia to carry flag, defacing public monuments, and obstruction and relocation
15 of monuments, as follows:

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16 "50-3-1.

17 (a) The flag of the State of Georgia shall consist of a square canton on a field of three
18 horizontal bands of equal width. The top and bottom bands shall be scarlet and the center
19 band white. The bottom band shall extend the entire length of the flag, while the center and
20 top bands shall extend from the canton to the fly end of the flag. The canton of the flag
21 shall consist of a square of blue the width of two of the bands, in the upper left of the hoist
22 of the flag. In the center of the canton shall be placed a representation in gold of the coat
23 of arms of Georgia as shown in the center of the obverse of the great seal of the State of
24 Georgia adopted in 1799 and amended in 1914. Centered immediately beneath the coat of
25 arms shall be the words 'IN GOD WE TRUST' in capital letters. The coat of arms and
26 wording 'IN GOD WE TRUST' shall be encircled by 13 white five-pointed stars,
27 representing Georgia and the 12 other original states that formed the United States of
28 America. Official specifications of the flag, including color identification system, type
29 sizes and fonts, and overall dimensions, shall be established by the Secretary of State, who
30 pursuant to Code Section 50-3-4 serves as custodian of the state flag. Every force of the
31 organized militia shall carry this flag while on parade or review.

32 (b)(1) As used in this subsection, the term:

33 (A) 'Agency' means any state or local government entity, including any department,
34 agency, bureau, authority, board, educational institution, commission, or
35 instrumentality or subdivision thereof, and specifically including a local board of
36 education, the Board of Regents of the University System of Georgia, and any
37 institution of the University System of Georgia.

38 (B) 'Monument' means a monument, plaque, statue, marker, flag and any associated
39 flagpole, banner, structure name, display, or memorial constructed and located with the
40 intent of being permanently displayed and perpetually maintained that is:

41 (i) Dedicated to a historical entity or historically significant military, religious, civil,
42 civil rights, political, social, or cultural events or series of events; or

43 (ii) Dedicated to, honors, or recounts the military service of any past or present
44 military personnel of this state; the United States of America or the several states
45 thereof; or the Confederate States of America or the several states thereof.

46 (C) 'Officer' means an officer, official, body, employee, contractor, representative, or
47 agent of any agency, whether appointed or elected.

48 (2) It shall be unlawful for any person, firm, corporation, agency, or other entity to
49 mutilate, deface, defile, damage, destroy, lose, or abuse contemptuously, relocate,
50 remove, conceal, or obscure any publicly or privately owned monument located, erected,
51 constructed, created, or maintained on real property owned by an agency or the State of
52 Georgia. No officer or agency shall remove or conceal from display any such monument
53 for the purpose of preventing the visible display of the same. ~~A violation of person who~~
54 violates this paragraph Code section shall constitute be guilty of a misdemeanor.

55 (3) No publicly or privately owned monument located, erected, constructed, created, or
56 maintained on the public property of this state or its agencies, departments, authorities,
57 or instrumentalities or on real property owned by an agency or the State of Georgia shall
58 be relocated, removed, concealed, obscured, or altered in any fashion by any officer or
59 agency; provided, however, that appropriate measures for the preservation; and protection
60 in place, and interpretation of such monument or memorial shall not be prohibited.

61 (4) Any person, firm, corporation, agency, or other entity that ~~damages, destroys, or loses~~
62 ~~a monument or that takes or removes a monument without replacing it~~ violates this Code
63 section shall be liable for treble the amount of the full cost of repair or replacement of
64 such monument and may be subject to exemplary damages ~~unless such person or entity~~
65 ~~was authorized to take such action by the public entity owning such monument.~~ In
66 addition to treble the cost of repair or replacement and possible exemplary damages, the
67 person, firm, corporation, agency, or other entity shall also be liable for the attorney's fees
68 and court costs expended by the ~~public entity owner of the monument or person, group,~~
69 ~~or legal entity~~ claimant under this Code section in any action or proceeding required to

70 establish liability ~~and collect amounts owed~~. Should a ~~public entity owner of the~~
71 ~~monument or person, group, or other legal entity~~ claimant under this Code section prevail
72 in any action under this Code section, such prevailing party claimant shall timely pay for
73 the cost of ~~or repair or placement~~ replacement of the monument upon moneys being
74 collected from the party mutilating, defacing, defiling, damaging, destroying, or losing,
75 abusing contemptuously, relocating, removing, concealing, or obscuring such monument.

76 (5) ~~A public entity owning a monument or any~~ Any interested person, group, or legal
77 entity, without regard to ownership of the monument or any specialized injury, shall have
78 standing and a right to bring a cause of action for any conduct prohibited by this Code
79 section ~~for damages as permitted by this Code section~~. Such a claimant may bring an
80 action individually or in a representative capacity against the person, firm, corporation,
81 agency, or other entity that violates this Code section to seek injunctive relief and to
82 recover attorney's fees, expenses of litigation, and general and exemplary damages
83 sustained as a result of such unlawful actions. Such action shall be brought in the
84 superior court of the county in which the monument was located.

85 (6) Except as provided in this paragraph, it shall be unlawful for any person, firm,
86 corporation, agency, or other entity acting without authority to mutilate, deface, defile,
87 damage, destroy, lose, abuse contemptuously, relocate, remove, conceal, or obscure any
88 privately owned monument located on privately owned property. ~~Any person or entity~~
89 ~~that suffers injury or damages as a result of a violation of this paragraph may bring an~~
90 ~~action individually or in a representative capacity against the person or persons~~
91 ~~committing such violations to seek to recover general and exemplary damages sustained~~
92 ~~as a result of such person's or persons' unlawful actions~~. This paragraph shall not apply
93 to an a private owner of real property storing privately owned monuments.

94 (7) Nothing in this Code section shall prevent an agency from relocating a monument
95 when relocation is necessary for the construction, expansion, or alteration of edifices,
96 buildings, roads, streets, highways, or other transportation construction projects. Any

97 monument relocated for such purposes shall be relocated to a site of similar prominence,
98 honor, visibility, and access within the same county or municipality in which the
99 monument was originally located. A monument shall not be relocated to a museum,
100 cemetery, or mausoleum unless it was originally placed at such location.

101 (8) In all cases in which there has been a violation of this Code section, the Attorney
102 General or the district attorney of the circuit in which the pertinent monument was
103 located may represent the interests of the monument owner, this state, and other
104 interested persons, groups, or legal entities as parens patriae in all legal matters pertaining
105 to the enforcement of this Code section. The Attorney General or such district attorney
106 may bring actions, and, insofar as an action of this nature may be deemed an action
107 against the state or its agencies, the state expressly gives its consent thereto.

108 (9) Conduct prohibited by this Code section shall be enjoined by the appropriate superior
109 court upon proper application therefor.

110 (c) Any other provision of law notwithstanding, the memorial to the heroes of the
111 Confederate States of America graven upon the face of Stone Mountain shall never be
112 altered, removed, concealed, or obscured in any fashion and shall be preserved and
113 protected for all time as a tribute to the bravery and heroism of the citizens of this state who
114 suffered and died in their cause.

115 (d) This Code section shall be severable in accordance with Code Section 1-1-3 of the
116 Official Code of Georgia Annotated."

117

SECTION 2.

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