

Senate Bill 77

By: Senators Mullis of the 53rd, Gooch of the 51st, Miller of the 49th, Dugan of the 30th, Jones of the 25th and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state flag, seal, and other symbols, so as to provide additional protections for government statues, monuments, plaques, banners, and other commemorative symbols; to provide definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

(B) 'Monument' means a monument, plaque, statue, marker, flag, banner, structure name, display, or memorial constructed and located with the intent of being permanently displayed and perpetually maintained that is dedicated to a historical entity or historically significant military, religious, civil, political, social, or cultural events or series of events.

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

~~(1)(2)~~ It shall be unlawful for any person, firm, corporation, or other entity to mutilate, deface, defile, or abuse contemptuously any publicly owned monument, ~~plaque, marker,~~

or memorial which is dedicated to, honors, or recounts the military service of any past or present military personnel of this state; the United States of America or the several states thereof; or the Confederate States of America or the several states thereof, and no officer, body, or representative of state or local government or any department, agency, authority, or instrumentality thereof located, erected, constructed, created, or maintained on real property owned by an agency or the State of Georgia. No officer or agency shall remove or conceal from display any such monument, plaque, marker, or memorial for the purpose of preventing the visible display of the same. A violation of this paragraph shall constitute a misdemeanor.

(2)(3) No publicly owned monument or memorial erected, constructed, created, or maintained on the public property of this state or its agencies, departments, authorities, or instrumentalities in honor of the military service of any past or present military personnel of this state, the United States of America or the several states thereof, or the Confederate States of America or the several states thereof or on real property owned by an agency or the State of Georgia shall be relocated, removed, concealed, obscured, or altered in any fashion by any officer or agency; provided, however, that appropriate measures for the preservation, and protection, and interpretation of such monuments monument or memorials memorial shall not be prohibited.

(3)(4) Conduct prohibited by paragraphs (1) and (2) of this subsection shall be enjoined by the appropriate superior court upon proper application therefor. Any person or entity that damages, destroys, or loses a monument or that takes or removes a monument without replacing it shall be liable for treble the amount of the full cost of repair or replacement of such monument and exemplary damages unless such person or entity was authorized to take such action by the public entity owning such monument. In addition to treble the cost of repair or replacement and exemplary damages, the person or entity shall also be liable for the attorney's fees and court costs expended by the public entity owner of the monument or person, group, or legal entity in any action or proceeding required to establish liability and collect amounts owed. Should a public entity owner of the monument or person, group, or other legal entity prevail in any action under this Code section, such prevailing party shall timely pay for the cost of or repair or placement of the monument upon moneys being collected from the party damaging, destroying, or losing such monument.

(5) A public entity owning a monument or any person, group, or legal entity shall have a right to bring a cause of action for any conduct prohibited by this Code section for damages as permitted by this Code section. Such action shall be brought in the superior court of the county in which the monument was located.

63 ~~(4)(6) It~~ Except as provided in this paragraph, it shall be unlawful for any person, firm,
64 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
65 contemptuously, relocate, remove, conceal, or obscure any privately owned monument;
66 plaque, marker, or memorial which is dedicated to, honors, or recounts the military
67 service of any past or present military personnel of this state, the United States of
68 America or the several states thereof, or the Confederate States of America or the several
69 states thereof located on privately owned property. Any person or entity ~~who~~ that suffers
70 injury or damages as a result of a violation of this paragraph may bring an action
71 individually or in a representative capacity against the person or persons committing such
72 violations to seek ~~injunctive relief and~~ to recover general and exemplary damages
73 sustained as a result of such person's or persons' unlawful actions. This paragraph shall
74 not apply to an owner of real property storing privately owned monuments.
75 (7) Nothing in this Code section shall prevent an agency from relocating a monument
76 when relocation is necessary for the construction, expansion, or alteration of edifices,
77 buildings, roads, streets, highways, or other transportation construction projects. Any
78 monument relocated for such purposes shall be relocated to a site of similar prominence,
79 honor, visibility, and access within the same county or municipality in which the
80 monument was originally located. A monument shall not be relocated to a museum,
81 cemetery, or mausoleum unless it was originally placed at such location."

82 SECTION 2.

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

85 SECTION 3.

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