

House Bill 277

By: Representative Mitchell of the 88th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 4 of Article 6 of Chapter 3 of Title 12 of the Official Code of Georgia
2 Annotated, relating to the Stone Mountain Memorial Association, so as to remove references
3 to the confederate memorial; to remove a requirement related to the sale of confederate
4 memorabilia by the association; to amend Chapter 3 of Title 50 of the Official Code of
5 Georgia Annotated, relating to the state flag, seal, and other symbols, so as to provide that
6 government entities may relocate, remove, conceal, obscure, or alter certain monuments; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 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, is amended by revising paragraph (7)
12 of Code Section 12-3-191, relating to definitions, as follows:

13 "(7) 'Project' means Stone Mountain and property adjacent thereto acquired by the
14 association and all accommodations, utilities, facilities, services, and equipment
15 necessary or convenient, and all property, real, personal, or mixed, used or useful,
16 including franchises and easements, in constructing, erecting, improving, remodeling,

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17 developing, equipping, adding to, extending, maintaining, managing, and operating Stone
18 Mountain, located in DeKalb County, Georgia, and property adjacent thereto, as a
19 ~~Confederate memorial~~ and public recreational area, and the construction, improvement,
20 development, maintenance, management, operation, and extension of any part thereof,
21 as to which the association has undertaken or agreed to undertake any action permitted
22 by this part."

23 **SECTION 2.**

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

26 "12-3-192.1.

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

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

31 **SECTION 3.**

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

34 **SECTION 4.**

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

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

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

45 (B) 'Monument' means a monument, plaque, statue, marker, flag, banner, structure
46 name, display, or memorial constructed and located with the intent of being
47 permanently displayed and perpetually maintained that is:

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

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

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

55 (2) It shall be unlawful for any person, firm, corporation, or other entity to mutilate,
56 deface, defile, or abuse contemptuously any publicly owned monument located, erected,
57 constructed, created, or maintained on real property owned by an agency or the State of
58 Georgia. No officer or agency shall remove or conceal from display any such monument
59 for the purpose of preventing the visible display of the same without a duly adopted
60 resolution of the public entity owning such monument, plaque, marker, or memorial
61 authorizing such monument, plaque, marker, or memorial to be removed or concealed
62 from display. A violation of this paragraph shall constitute a misdemeanor.

63 (3) No publicly owned monument erected, constructed, created, or maintained on the
64 public property of this state or its agencies, departments, authorities, or instrumentalities
65 or on real property owned by an agency or the State of Georgia shall be relocated,
66 removed, concealed, obscured, or altered in any fashion by any officer or agency without

67 a duly adopted resolution of the public entity owning such monument, plaque, marker,
68 or memorial authorizing such monument, plaque, marker, or memorial to be removed or
69 concealed from display; provided, however, that appropriate measures for the
70 preservation, protection, and interpretation of such monument or memorial shall not be
71 prohibited.

72 (4) Any person or entity that damages, destroys, or loses a monument or that takes or
73 removes a monument in violation of this Code section without replacing it shall be liable
74 for treble the amount of the full cost of repair or replacement of such monument and may
75 be subject to exemplary damages unless such person or entity was authorized to take such
76 action by the public entity owning such monument. In addition to treble the cost of repair
77 or replacement and possible exemplary damages, the person or entity shall also be liable
78 for the attorney's fees and court costs expended by the public entity owner of the
79 monument or person, group, or legal entity in any action or proceeding required to
80 establish liability and collect amounts owed. Should a public entity owner of the
81 monument or person, group, or other legal entity prevail in any action under this Code
82 section, such prevailing party shall timely pay for the cost of or repair or placement of the
83 monument upon moneys being collected from the party damaging, destroying, or losing
84 such monument.

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

89 (6) Except as provided in this paragraph, it shall be unlawful for any person, firm,
90 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
91 contemptuously, relocate, remove, conceal, or obscure any privately owned monument
92 located on privately owned property, provided that, if such monument, plaque, marker,
93 or memorial is located on public property, the public entity owning such public property

94 may remove from display and return such monument, plaque, marker, or memorial to the
95 private entity owning such monument, plaque, marker, or memorial upon the adoption
96 of a resolution by such public entity authorizing such removal and return. Any person
97 or entity that suffers injury or damages as a result of a violation of this paragraph may
98 bring an action individually or in a representative capacity against the person or persons
99 committing such violations to seek to recover general and exemplary damages sustained
100 as a result of such person's or persons' unlawful actions. This paragraph shall not apply
101 to an owner of real property storing privately owned monuments.

102 (7) Nothing in this Code section shall prevent an agency from relocating a monument
103 when relocation is necessary for the construction, expansion, or alteration of edifices,
104 buildings, roads, streets, highways, or other transportation construction projects. Any
105 monument relocated for such purposes shall be relocated to a site of similar prominence,
106 honor, visibility, and access within the same county or municipality in which the
107 monument was originally located. A monument shall not be relocated to a museum,
108 cemetery, or mausoleum unless it was originally placed at such location."

109 **SECTION 5.**

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