

House Bill 513

By: Representative Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state and other flags, so as to provide for protections for publicly and privately
3 owned monuments on public property; to provide for damages and injunctive relief; to
4 provide for criminal liability for individuals; to provide for related matters; to provide an
5 effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state
9 and other flags, is amended by revising Code Section 50-3-1, relating to description of state
10 flag, militia to carry flag, defacing public monuments, and obstruction and relocation of
11 monuments, as follows:

12 "50-3-1.

13 (a) The flag of the State of Georgia shall consist of a square canton on a field of three
14 horizontal bands of equal width. The top and bottom bands shall be scarlet and the center
15 band white. The bottom band shall extend the entire length of the flag, while the center and
16 top bands shall extend from the canton to the fly end of the flag. The canton of the flag

shall consist of a square of blue the width of two of the bands, in the upper left of the hoist of the flag. In the center of the canton shall be placed a representation in gold of the coat of arms of Georgia as shown in the center of the obverse of the Great Seal of the State of Georgia adopted in 1799 and amended in 1914. Centered immediately beneath the coat of arms shall be the words 'IN GOD WE TRUST' in capital letters. The coat of arms and wording 'IN GOD WE TRUST' shall be encircled by 13 white five-pointed stars, representing Georgia and the 12 other original states that formed the United States of America. Official specifications of the flag, including color identification system, type sizes and fonts, and overall dimensions, shall be established by the Secretary of State, who pursuant to Code Section 50-3-4 serves as custodian of the state flag. Every force of the organized militia shall carry this flag while on parade or review.

(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 and associated flag pole, banner, structure name, display, or memorial constructed and located with the intent of being permanently displayed and perpetually maintained that is:

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

(ii) 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.

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

(2) It shall be unlawful for any person, firm, corporation, or other entity to mutilate, deface, defile, or abuse contemptuously any publicly or privately owned monument 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 for the purpose of preventing the visible display of the same. ~~A violation of this paragraph shall constitute~~ Any individual who violates the provisions of this Code section shall be guilty of a misdemeanor.

(3) No publicly owned monument or privately owned monument erected, constructed, created, or maintained on the public property of this state or its agencies, departments, authorities, or instrumentalities 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 monument or memorial shall not be prohibited.

(4) 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 may be subject to 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 possible 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. Those individuals acting on instructions from a governmental entity shall not be liable for exemplary damages, but may be liable for any or all other damages as set out in this Code

71 section. Local government entities may be held liable for any or all damages as set out
72 in this Code section. Other individual actors may be liable for any or all other forms of
73 damages.

74 (5) Conduct prohibited by paragraphs (2), (3), and (4) of this subsection shall be enjoined
75 by the appropriate superior court upon proper application for such injunction by a public
76 entity or any person, group, or other legal entity.

77 ~~(5)~~(6) A public entity owning a monument or any person, group, or legal entity shall
78 have a right to bring a cause of action for any conduct prohibited by this Code section for
79 damages as permitted by this Code section. Such action shall be brought in the superior
80 court of the county in which the monument was located.

81 ~~(6)~~(7) Except as provided in this paragraph, it shall be unlawful for any person, firm,
82 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
83 contemptuously, relocate, remove, conceal, or obscure any privately owned monument
84 located on privately owned property. Any person or entity that suffers injury or damages
85 as a result of a violation of this ~~paragraph~~ Code section may bring an action individually
86 or in a representative capacity against the person or persons committing such violations
87 to seek injunctive relief and to recover attorney's fees, expenses of litigation and general
88 and exemplary damages sustained as a result of such person's or persons' unlawful
89 actions. This paragraph shall not apply to an owner of real property storing privately
90 owned monuments.

91 ~~(7)~~(8) Nothing in this Code section shall prevent an agency from relocating a monument
92 when relocation is necessary for the construction, expansion, or alteration of edifices,
93 buildings, roads, streets, highways, or other transportation construction projects. Any
94 monument relocated for such purposes shall be relocated to a site of similar prominence,
95 honor, visibility, and access within the same county or municipality in which the
96 monument was originally located. A monument shall not be relocated to a museum,
97 cemetery, or mausoleum unless it was originally placed at such location.

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

103 **SECTION 2.**

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

106 **SECTION 3.**

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