

1 SB71
2 115299-2
3 By Senator Mitchell
4 RFD: Governmental Affairs
5 First Read: 12-JAN-10
6 PFD: 01/04/2010

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 13A-7-23.1, Code of Alabama 1975,
12 relating to the crime of desecration or defacement of certain
13 memorials and to provide exemptions; and in connection
14 therewith would have as its purpose or effect the requirement
15 of a new or increased expenditure of local funds within the
16 meaning of Amendment 621 of the Constitution of Alabama of
17 1901, now appearing as Section 111.05 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 13A-7-23.1, Code of Alabama 1975,
22 is amended to read as follows:

23 "§13A-7-23.1.

24 "(a) Any person who willfully or maliciously
25 injures, defaces, removes, or destroys any tomb, monument,
26 gravestone or other memorial of the dead, or any fence or any
27 inclosure about any tomb, monument, gravestone or memorial,

1 burial mound, earthen or shell monument containing human
2 skeletal remains or associated burial artifacts, or other
3 structure or thing placed or designed for a memorial of the
4 dead, or any fence, railing, curb, or any enclosure for the
5 protection or ornamentation of any tomb, monument, gravestone,
6 burial mound, earthen or shell monument containing human
7 skeletal remains or associated burial artifacts, or other
8 structure before mentioned, or for any enclosure for the
9 burial of the dead, or any person who willfully and wrongfully
10 or maliciously destroys, removes, cuts, breaks, or injures any
11 tree, shrub, plant, flower, decoration, or other real or
12 personal property within any cemetery or graveyard shall be
13 guilty of a Class A misdemeanor.

14 "(b) Any person who willfully or maliciously
15 desecrates, injures, defaces, removes, or destroys any tomb,
16 monument, structure, or container of human remains, burial
17 mound, earthen or shell monument containing human skeletal
18 remains or associated burial artifacts, and invades or
19 mutilates the human corpse or remains shall be guilty of a
20 Class C felony and upon conviction the person shall be
21 punished as provided by law. ~~Any person who maliciously~~
22 ~~desecrates an American Indian place of burial or funerary~~
23 ~~objects on property not owned by the person shall be guilty of~~
24 ~~a Class C felony and upon conviction the person shall be~~
25 ~~punished as provided by law.~~

26 "(c) The provisions of subsections (a) and (b) ~~of~~
27 ~~this section~~ shall not apply to any person holding a permit

1 issued by the Alabama Historical Commission pursuant to
2 subsection (d) ~~of this section, to anyone operating a cemetery~~
3 under standard rules and regulations and maintenance
4 procedures, or to any person otherwise authorized by law to
5 remove or disturb a tomb, monument, grave marker, burial
6 mound, earthen or shell monument, or similar structure, or its
7 contents, as described in subsections (a) and (b).

8 "(d) The Alabama Historical Commission, to provide
9 for the lawful preservation, investigation, restoration, or
10 relocation of human burial remains, human skeletal remains, or
11 funerary objects, shall promulgate rules and regulations for
12 the issuance of a permit and may issue a permit to persons or
13 companies who seek to restore, preserve, or relocate human
14 burial remains, human skeletal remains, funerary objects, or
15 otherwise disturb, a place of burial."

16 Section 2. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 3. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Governmental Affairs	12-JAN-10
Read for the second time and placed on the calen- dar 1 amendment	14-JAN-10
Read for the third time and passed as amended ...	17-FEB-10

Yeas 26
Nays 0

McDowell Lee
Secretary