

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S2/27/03 S3/21/03 S3/25/03

A Bill

SENATE BILL 37

5 By: Senators J. Jeffress, *Bisbee, Steele*
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For An Act To Be Entitled

9 AN ACT TO MAKE IT UNLAWFUL FOR A LOCAL GOVERNMENT
10 OR A PRIVATE ENTITY TO PROHIBIT A PERSON FROM
11 FLYING THE FLAG OF THE UNITED STATES; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14 TO MAKE IT UNLAWFUL FOR A LOCAL
15 GOVERNMENT OR A PRIVATE ENTITY TO
16 PROHIBIT A PERSON FROM FLYING THE FLAG
17 OF THE UNITED STATES.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. As used in this act:

24 (1)(A) "Flag of the United States" means the flag of the United States
25 made of fabric, cloth, or paper suitable for display from a pole, staff, or
26 in a window and with dimensions not larger than ten (10) feet in length or
27 eight (8) feet in width; and

28 (B) "Flag of the United States" does not mean a depiction or
29 emblem of the flag of the United States made in lights, paint, roofing,
30 siding, paving materials, flora, balloons, or any other similar building,
31 landscaping, or decorative components;

32 (2) "Legal right" means the freedom of use and enjoyment generally
33 exercised by the owners and occupiers of land;

34 (3) "Local government" means a county, a city of the first class or
35 second class, an incorporated town, or any other district or political
36 subdivision, or any board, commission, or agency of the these political



1 subdivisions.

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3 SECTION 2. (a) A local government shall not adopt any ordinance,
4 regulation, or policy that prohibits or restricts a resident from properly
5 displaying a flag of the United States on the resident's person, property, or
6 motor vehicle unless the flag is used as, or in conjunction with, an
7 advertising display.

8 (b) This section shall not prevent a local government from imposing
9 reasonable restrictions as to the time, place, and manner of displaying the
10 flag of the United States when necessary for the preservation of the public's
11 health and safety or the public order.

12 (c) No restrictions solely to promote aesthetic considerations shall
13 be imposed under subsection (b) of this section.

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15 SECTION 3. (a) Except as provided in subsection (b) of this section,
16 no person, homeowner's association, property owner's association, or other
17 private entity shall adopt any rule, regulation, or policy, or shall enter
18 into any agreement or protective covenant, that prevents any person or
19 private entity that would otherwise have the legal right to properly display
20 a flag of the United States on private property from exercising that right.

21 (b)(1) Display of the flag may be restricted if the flag is used as,
22 or in conjunction with, an advertising display.

23 (2) This section shall not apply to:

24 (A) Landlords of private rental property who operate fewer
25 than twelve (12) rental units; and

26 (B) Property owned by churches or religious organizations.

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28 SECTION 4. A prevailing party in an action to enforce the legal right
29 to fly a flag of the United States shall be entitled to recover the court
30 costs and reasonable attorneys' fees incurred.

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32 /s/ J. Jeffress