

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 538

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO STATE GOVERNMENT AND STATE AFFAIRS; AMENDING SECTION 67-2303A,
3 IDAHO CODE, TO REVISE PROVISIONS REGARDING FLAGS FLOWN BY A GOVERNMEN-
4 TAL ENTITY, TO REMOVE PROVISIONS REGARDING FLAGS FLOWN BY A GOVERNMEN-
5 TAL ENTITY, TO PROVIDE A PENALTY, AND TO ESTABLISH PROVISIONS REGARDING
6 ENFORCEMENT BY THE ATTORNEY GENERAL; AND DECLARING AN EMERGENCY.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 67-2303A, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 67-2303A. FLAGS -- PROPER PROTOCOL. (1) As used in this section, "gov-
11 ernmental entity" means the state of Idaho or any county, municipality, spe-
12 cial district, or any other political subdivision or governmental instru-
13 mentality of or within the state other than a school, college, or university.
14 Property of a governmental entity includes land owned and maintained by the
15 governmental entity, including buildings, adjoining land, parks, roads, and
16 boulevards.

17 (2) A governmental entity shall not display a flag on its property other
18 than the following:

19 (a) The United States flag;

20 ~~(b) The official flag of a governmental entity as defined in this sec-~~
21 ~~tion;~~

22 ~~(c) Official flags of any state in the United States and the offi-~~
23 ~~cial city or county flag;~~

24 ~~(d) (c) Official flags of any of the military branches and units of the~~
25 ~~United States;~~

26 ~~(e) (d) The POW/MIA flag as provided for in section 67-2303, Idaho Code;~~

27 ~~(f) (e) Official flags of recognized Indian tribes;~~

28 ~~(g) (f) Official flags of countries other than the United States to com-~~
29 ~~memorate special occasions, including the Basque autonomous community~~
30 ~~flag but excluding countries with which the United States is engaged in~~
31 ~~hostile action; and~~

32 ~~(h) Official flags of Idaho colleges, universities, and public~~
33 ~~schools.~~

34 (g) The official flag of an Idaho college or university, if it has des-
35 ignated by official policy exactly one (1) official flag.

36 (3) The division of veterans services is hereby authorized to promul-
37 gate rules directing the proper protocol for the location and display of
38 flags flown on state property.

39 (4) A governmental entity that fails to comply with the provisions of
40 this section shall be subject to a civil penalty of two thousand dollars
41 (\$2,000) per flag for each day such flag is displayed.

1 (5) The attorney general shall have the duty to enforce this section
2 against a governmental entity. Before initiating a civil action against a
3 governmental entity, the attorney general shall advise the governmental en-
4 tity in writing of the violation and, if the governmental entity has not al-
5 ready been advised of a substantially similar violation, allow the govern-
6 mental entity ten (10) days to cure the violation. If the violation is cured
7 within ten (10) days, the governmental entity shall not be subject to civil
8 penalties for the violation. If the violation is not cured within ten (10)
9 days, or if the governmental entity is not entitled to an opportunity to cure
10 based on the commission of a substantially similar violation, the attorney
11 general shall have the authority to file a civil action in the district court
12 of the county in which the governmental entity is located to enjoin the gov-
13 ernmental entity from violating the provisions of this section and to re-
14 cover civil penalties accruing from the first day of violation. If the at-
15 torney general prevails in such action, the court shall award the attorney
16 general all attorney's fees incurred in bringing the action.

17 SECTION 2. An emergency existing therefor, which emergency is hereby
18 declared to exist, this act shall be in full force and effect on and after its
19 passage and approval.