

Senate Bill 389

By: Senators Grant of the 25th, Murphy of the 27th, Carter of the 13th, Tolleson of the 20th and Wiles of the 37th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to the  
2 registration, operation, and sale of watercraft, so as to revise provisions relating to operation  
3 of personal watercraft; to revise provisions relating to operation of watercraft; to enact the  
4 "Mandatory Boating Safety Education Act"; to provide a short title; to provide definitions;  
5 to provide for applicability; to provide for lease and rental agreements; to provide for  
6 issuance of rules and regulations by the department; to provide for related matters; to provide  
7 for effective dates; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to the registration,  
11 operation, and sale of watercraft, is amended by revising Code Section 52-7-8.2, relating to  
12 restrictions on operating personal watercraft, as follows:

13 "52-7-8.2.

14 (a) As used in this Code section, the term:

15 (1) 'Accompanied by' means in the physical presence within the vessel of a person who  
16 is not under the influence of alcohol or drugs to a degree which would constitute a  
17 violation of Code Section 52-7-12 were such person operating the vessel.

18 (2) 'Class A vessel' means a boat less than 16 feet in length.

19 (3) 'Personal watercraft' means a Class A vessel which:

20 (A) Has an outboard motor or which has an inboard motor which uses an internal  
21 combustion engine powering a water jet pump as its primary source of motive  
22 propulsion;

23 (B) Is designed with the concept that the operator and passenger ride on the outside  
24 surfaces of the vessel as opposed to riding inside the vessel; and

25 (C) Has the probability that the operator and passenger may, in the normal course of  
26 use, fall overboard.

1 Such term includes, without limitation, any vessel where the operator and passenger ride  
2 on the outside surfaces of the vessel, even if the primary source of motive propulsion is  
3 a propeller, and any vessels commonly known as a 'jet ski.'

4 (4) 'Under the direct supervision' means within sight of and within 400 yards of a person  
5 who is not under the influence of alcohol or drugs to a degree which would constitute a  
6 violation of Code Section 52-7-12 were such person operating the vessel and who is  
7 aware of his or her supervisory responsibility.

8 (b) No person shall operate or give permission to operate personal watercraft on the waters  
9 of this state unless each person aboard such personal watercraft is wearing a United States  
10 Coast Guard approved personal flotation device, Type I, Type II, Type III, or Type V.  
11 Each such personal flotation device must be properly fastened, in good and serviceable  
12 condition, and the proper size for the person wearing it.

13 ~~(c) No person shall rent, lease, or let for hire a personal watercraft to any person under the~~  
14 ~~age of 16 years.~~

15 ~~(d)~~ No person shall operate a personal watercraft on the waters of this state after sunset or  
16 before sunrise unless such person is engaged in the enforcement of the laws of this state or  
17 this nation.

18 ~~(e)~~(d) No person shall operate a personal watercraft on the waters of this state unless such  
19 personal watercraft is equipped with a self-circling device or a lanyard-type engine cutoff  
20 switch.

21 ~~(f)~~(e) No person shall operate on the waters of this state a personal watercraft which has  
22 been equipped by the manufacturer with a lanyard-type engine cutoff switch unless the  
23 lanyard and the switch are operational and unless the lanyard is attached to the operator,  
24 the operator's clothing, or a personal flotation device worn by the operator.

25 ~~(g)~~(f) No person shall operate on the waters of this state a personal watercraft which has  
26 been equipped by the manufacturer with a self-circling device if the self-circling device or  
27 the engine throttle has been altered in any way that would prohibit the self-circling device  
28 from operating in its intended manner.

29 ~~(h)~~(g) It shall be unlawful for any person who owns a personal watercraft or who has  
30 charge over or control of a personal watercraft to authorize or knowingly to permit such  
31 personal watercraft to be operated in violation of this Code section or of Code  
32 Section 52-7-8.3.

33 ~~(i)~~(h) The provisions of this Code section shall not apply to vessels engaged in any activity  
34 authorized under Code Section 52-7-19.

35 ~~(j)~~(i) No person shall operate a personal watercraft on the waters of this state at a speed  
36 greater than idle speed within 100 feet of any moored or anchored vessel, any vessel adrift,  
37 or any wharf, dock, pier, piling, bridge structure or abutment, person in the water, or

1 shoreline adjacent to a full-time or part-time residence, public park, public beach, public  
2 swimming area, marina, restaurant, or other public use area.

3 ~~(k)(j)~~ It shall be unlawful for any person to operate a personal watercraft on the waters of  
4 this state while towing a person or persons on water skis, aquaplanes, surfboards, tubes, or  
5 any similar device; provided, however, that the provisions of this subsection shall not apply  
6 to any personal watercraft designed by the manufacturer to carry three or more persons,  
7 provided that such personal watercraft has on board a competent observer in addition to the  
8 operator at any time that a person is being towed.

9 ~~(l)~~ On and after June 1, 1995, no person under the age of 16 years shall operate a personal  
10 watercraft on the waters of this state; provided, however, that a person age 12 through 15  
11 years may operate a personal watercraft if he or she is accompanied by an adult age 18 or  
12 over or he or she has successfully completed a personal watercraft safety program approved  
13 by the department or is under direct supervision by an adult age 18 or over. The department  
14 may, but shall not be required to, conduct or provide personal watercraft safety courses to  
15 the public.

16 ~~(m)~~ On and after July 1, 1995, it shall be unlawful for any person to cause or knowingly  
17 permit such person's child or ward who is less than 12 years of age or the child or ward of  
18 another over whom such person has a permanent or temporary responsibility of supervision  
19 if such child or ward is less than 12 years of age to operate a personal watercraft.

20 ~~(n)~~ It shall be unlawful for any person to cause or knowingly permit such person's child  
21 or ward who is age 12 through 15 years or the child or ward of another over whom such  
22 person has a permanent or temporary responsibility of supervision if such child or ward is  
23 age 12 through 15 years to operate a personal watercraft other than in compliance with the  
24 provisions of subsection (l) of this Code section."

## 25 SECTION 2.

26 Said chapter is further amended by revising Code Section 52-7-8.3, relating to operation of  
27 watercraft, as follows:

28 "52-7-8.3.

29 ~~(a)~~ A person age 16 or over may operate any vessel or personal watercraft on any of the  
30 waters of this state, and such person shall have in such vessel proper identification.

31 ~~(b)~~ A person age 14 or 15 may operate:

32 ~~(1)~~ A personal watercraft or nonmotorized Class A vessel on any of the waters of this  
33 state in compliance with the provisions of this article; and

34 ~~(2)~~ Any other vessel if such person:

35 ~~(A)~~ Is accompanied by an adult age 18 or over who is authorized to operate such vessel  
36 under the provisions of subsection (a) of this Code section;

1 ~~(B) Has completed a safe boating course approved by the department; or~~

2 ~~(C) Is under direct supervision by an adult age 18 or over.~~

3 ~~(c) A person age 12 or 13 may operate any Class A vessel utilizing mechanical means of~~  
 4 ~~propulsion not exceeding 30 horsepower, under the conditions set forth in subparagraphs~~  
 5 ~~(b)(2)(A) through (b)(2)(C) of this Code section. Such person may operate a personal~~  
 6 ~~watercraft in compliance with Code Section 52-7-8.2, and such person may operate~~  
 7 ~~nonmotorized Class A vessels without restriction.~~

8 ~~(d) No person under the age of 12 shall operate any Class 1, 2, or 3 vessel or any personal~~  
 9 ~~watercraft on any of the waters of this state, and no such person shall operate any Class A~~  
 10 ~~vessel utilizing mechanical means of propulsion exceeding 30 horsepower. Such person~~  
 11 ~~may operate a Class A vessel, other than a personal watercraft, utilizing mechanical means~~  
 12 ~~of propulsion not exceeding 30 horsepower only where such person is accompanied by an~~  
 13 ~~adult age 18 or over who is authorized to operate such vessel under the provisions of~~  
 14 ~~subsection (a) of this Code section.~~

15 ~~(e) As used in this Code section, the term:~~

16 ~~(1) 'Accompanied by' means in the physical presence within the vessel of a person who~~  
 17 ~~is not under the influence of alcohol or drugs to a degree which would constitute a~~  
 18 ~~violation of Code Section 52-7-12 were such person operating the vessel.~~

19 ~~(2) 'Proper identification' shall have the same meaning as in subsection (d) of Code~~  
 20 ~~Section 3-3-23, relating to furnishing of alcoholic beverages.~~

21 ~~(3) 'Under the direct supervision' means within sight of and within 400 yards of a person~~  
 22 ~~who is not under the influence of alcohol or drugs to a degree which would constitute a~~  
 23 ~~violation of Code Section 52-7-12 were such person operating the vessel and who is~~  
 24 ~~aware of his or her supervisory responsibility.~~

25 ~~(f) No person having ownership or control of a vessel shall permit another person to~~  
 26 ~~operate such vessel in violation of this Code section Reserved."~~

### 27 **SECTION 3.**

28 Said chapter is further amended by adding a new article to read as follows:

#### 29 "ARTICLE 1A

30 52-7-30.

31 This article shall be known and may be cited as the 'Mandatory Boating Safety Education  
 32 Act.'

1 52-7-31.

2 As used in this article, the term:

3 (1) 'Certificate' means a boating education safety certificate issued as evidence of  
4 successful completion of a course in safe boating or successful passage of an equivalency  
5 examination.

6 (2) 'Department' means the Department of Natural Resources.

7 (3) 'Motorboat' means a recreational vessel propelled in whole or in part by machinery,  
8 including a recreational vessel temporarily equipped with a detachable engine.

9 (4) 'NASBLA' means the National Association of State Boating Law Administrators.

10 (5) 'Operate' or 'operating' means to navigate or otherwise control the movement of a  
11 vessel, including control of the vessel's propulsion system.

12 (6) 'Operator' means the person who navigates or is otherwise in control or in charge of  
13 the movement of a vessel, including control of the vessel's propulsion system.

14 (7) 'Person' means any natural person or individual.

15 (8) 'Proper identification' shall have the same meaning as in subsection (d) of Code  
16 Section 3-3-23, relating to furnishing of alcoholic beverages.

17 (9) 'Vessel' means every description of watercraft, other than a seaplane, used or capable  
18 of being used as a means of transportation on the water.

19 (10) 'Waters of the state' means any waters within the jurisdiction of the state.

20 52-7-32.

21 The provisions of this article shall apply to persons:

22 (1) Less than 20 years of age on July 1, 2009;

23 (2) Less than 30 years of age on July 1, 2010;

24 (3) Less than 40 years of age on July 1, 2011;

25 (4) Less than 50 years of age on July 1, 2012;

26 (5) Less than 60 years of age on July 1, 2013; and

27 (6) Sixty years of age or older on July 1, 2014.

28 52-7-33.

29 (a) A person shall not operate a motorboat on any waters of this state unless the operator:

30 (1) Has successfully completed a course and examination in safe boating that is approved  
31 by NASBLA and certified by the state or passed an equivalency examination if the  
32 examination was proctored and tests the knowledge of information included in the  
33 curriculum of such a course and has received a certificate;

1 (2) Possesses a valid license to operate a vessel issued for maritime personnel by the  
2 United States Coast Guard pursuant to 46 C.F.R. Part 10 or a marine certificate issued by  
3 the Canadian government;

4 (3) Possesses a state approved nonrenewable temporary operator's permit to operate the  
5 motorboat which was issued with the certificate of number for the motorboat if the boat  
6 is new or was sold with a transfer of ownership;

7 (4) Possesses a rental agreement or lease agreement provided pursuant to Code Section  
8 52-7-35 which lists the person as an authorized operator of the motorboat;

9 (5) Is not a resident of this state, is temporarily using the waters of this state for a period  
10 not to exceed 60 days, and meets any applicable requirements of his or her state of  
11 residency or possesses a Canadian Pleasure Craft Operator's Card;

12 (6) Is a person who operates a vessel under supervised training, as authorized by the  
13 state; or

14 (7) Has proper identification in the vessel, provided the operator is 16 years of age or  
15 older.

16 (b) A person under 12 years of age shall not operate a motor-powered vessel on the waters  
17 of this state unless accompanied on board and directly supervised by a person 18 years of  
18 age or older who holds a certificate.

19 52-7-34.

20 (a) A person who is operating a motorboat on any waters of this state and who is stopped  
21 by a law enforcement officer in the enforcement of this article or the regulations adopted  
22 pursuant thereto shall present to the officer evidence that the requirements of Code  
23 Section 52-7-33 have been met. Failure of such person to present such evidence shall  
24 constitute prima facie evidence of a violation of Code Section 52-7-33.

25 (b) A person who alters, forges, counterfeits, or falsifies a certificate or other document  
26 used as evidence that the requirements of Code Section 52-7-33 have been met; or who  
27 possesses a certificate or other document that has been altered, forged, counterfeited, or  
28 falsified; or who loans or permits his or her certificate or other document to be used by  
29 another person shall be guilty of a misdemeanor.

30 (c) A person who fails to present the certificate or other document as evidence that the  
31 requirements of Code Section 52-7-33 have been met shall be guilty of a misdemeanor  
32 unless such person presents the required documents in a court having jurisdiction over the  
33 offense that prove such person was operating such motorboat in compliance with Code  
34 Section 52-7-33 on the date of the violation.

35 (d) In any proceeding for a violation of this article, the court having jurisdiction over the  
36 offense may suspend all or part of the fine to be imposed on the defendant if the defendant

1 completes the safe boating education course approved by NASBLA and certified by the  
2 state within the time limits imposed by the court.

3 (e) The court having jurisdiction of the offense may prohibit a person who is found to have  
4 violated any of the provisions of this article from operating a motorboat upon the waters  
5 of this state until such person successfully completes the safe boating education course  
6 approved by NASBLA and certified by the state.

7 52-7-35.

8 (a) A person or his or her agent or employee engaged in the business of renting or leasing  
9 motorboats for a period not exceeding 30 days shall not rent or lease a motorboat to any  
10 person for operation on the waters of this state unless such person:

11 (1) Meets the provisions of Code Section 52-7-33; and

12 (2) Is 18 years of age or older.

13 (b) A person or his or her agent or employee engaged in the business of renting or leasing  
14 motorboats shall list on each rental or lease agreement for a motorboat the name and age  
15 of each person who is authorized to operate such motorboat. The person to whom the  
16 motorboat is rented or leased shall ensure that only those persons who are listed as  
17 authorized operators are allowed to operate such motorboat.

18 (c) A person or his or her agent or employee engaged in the business of renting or leasing  
19 motorboats shall provide to each authorized operator of a motorboat a summary of the  
20 statutes and regulations governing the operation of a motorboat and instructions regarding  
21 the safe operation of such motorboat. Each person who is listed as an authorized operator  
22 of the motorboat shall review the summary of the statutes, regulations, and instructions  
23 before the motorboat departs from the rental or leasing office.

24 (d) A person or his or her agent or employee engaged in the business of renting or leasing  
25 motorboats may utilize a rental safety checklist which highlights the most important  
26 boating safety rules and require the person to whom the motorboat is rented to initial each  
27 section to prove that he or she has read it and is aware of the safety issues.

28 52-7-36.

29 As soon as practicable after July 1, 2008, the department shall adopt necessary regulations  
30 to carry out the provisions of this article, including provisions for issuance of certificates,  
31 duplicate certificates, record keeping, cooperative agreements, name and address changes,  
32 the establishment of fees for boating safety courses and certificates, and equivalency exam  
33 criteria. The regulations shall also include requirements for certifying and approving  
34 proctors to administer the examinations required under this article. The department shall

1 have its testing and certifying procedures in place and functioning before January 1, 2009,  
2 in order to allow boaters to comply with the provisions of this article before July 1, 2009.”

3 **SECTION 4.**

4 Sections 1, 2, and 3 of this Act shall become effective on July 1, 2009, except for Code  
5 Section 52-7-36, which shall become effective on July 1, 2008.

6 **SECTION 5.**

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