

House Bill 1070

By: Representative Sims of the 169th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 13 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to special provisions for certain vehicles, so as to provide rules for operating motor
3 vehicles on the waters of this state; to provide for legislative findings; to provide for
4 definitions; to provide for exemptions; to protect public recreational use of the waters of this
5 state; to provide for related matters; to provide for an effective date; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 13 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
10 special provisions for certain vehicles, is amended by adding a new Part 6 to read as follows:

11 **"Part 6**

12 40-6-365.

13 (a) The General Assembly finds that the protection of public access to the beds, bottoms,
14 and banks of navigable rivers and navigable streams should not come at the cost of
15 uncontrolled damage to the beds, bottoms, and banks of navigable rivers and streams or at
16 the cost of infringing on private property rights.

17 (b) As used in this part, the term:

18 (1) 'Emergency' means a condition or circumstance in which a person reasonably
19 believes that an individual has sustained serious bodily injury or is in imminent danger
20 of serious bodily injury or that property has sustained significant damage or destruction
21 or is in imminent danger of significant destruction.

22 (2) 'Motor vehicle' means any wheeled or tracked vehicle, machine, tractor, trailer, or
23 semitrailer propelled or drawn by mechanical power and used to transport a person or
24 thing.

1 (3) 'Waters,' 'waters of the state,' or 'water area' means any and all rivers, streams, creeks,
2 branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and all other bodies
3 of surface or subsurface water, natural or artificial, lying within or forming a part of the
4 boundaries of the state which are not entirely confined and retained completely upon the
5 property of a single individual, partnership, or corporation. This definition includes
6 coastal marshlands or marshlands as defined in paragraph (3) of Code Section 12-5-282.

7 40-6-366.

8 (a) Except as provided in subsections (b) and (c) of this Code section, a person shall not
9 operate a motor vehicle in or on the waters of this state on or after January 1, 2009.

10 (b) Subsection (a) of this Code section shall not apply to:

11 (1) A state, county, or municipal road right of way;

12 (2) A private road crossing established on or before December 31, 2008; or

13 (3) Operation of a motor vehicle by:

14 (A) A federal, state, or local government employee if operation of a motor vehicle is
15 necessary for conducting official business;

16 (B) A person if operation of a motor vehicle is necessary to and is authorized by a
17 mineral lease;

18 (C) A person engaged in agricultural or silvacultural activities;

19 (D) A person in response to an emergency;

20 (E) A person if operation of a motor vehicle is necessary for the lawful construction,
21 operation, or maintenance of equipment, facilities, or structures used for:

22 (i) The production, transportation, transmission, or distribution of electric power;

23 (ii) The provision of telecommunications services or other services delivered through
24 a cable system;

25 (iii) The production of minerals or other mining ores;

26 (iv) The production, treatment, or transportation of waste or waste water; or

27 (v) Dredge material disposal placement; or

28 (F) An owner of the adjacent uplands on both sides of a water area and the owner's
29 agents, employees, representatives, and lessees only for the purpose of accessing the
30 owner's property on the opposite side of the water area when no reasonable alternate
31 access is available.

32 (c) A person exempt under subsection (b) of this Code section who operates a motor
33 vehicle in or on the waters of this state shall do so in a manner that avoids, to the extent
34 reasonably possible, harming or disturbing vegetation, wildlife, or wildlife habitat within
35 the water area. A person exempt under subsection (b) of this Code section who is crossing
36 a water area shall cross by the most direct feasible route.

1 40-6-367.

2 (a) A prescriptive easement over private property shall not be created by recreational use
3 of a water area, including by portage over or around barriers, scouting of obstructions, or
4 crossing of private property to or from a water area.

5 (b) Except as otherwise allowed by law, a person shall not restrict, obstruct, interfere with,
6 or limit public recreational use of a water area.

7 (c) Nothing in this Code section shall limit the right of a person to navigate in, on, or
8 around a water area nor allow the public the use of private property to gain access to a
9 water area without permission of the landowner.

10 40-6-368.

11 (a) All law enforcement officers of this state shall enforce the provisions of this part.

12 (b) A person commits a misdemeanor if the person violates any of the provisions of this
13 part.

14 (c) Each violation of the provisions of this part constitutes a separate offense.

15 (d)(1) A first conviction for violating the provisions of this part shall be punishable by
16 impoundment of the motor vehicle, a \$100.00 fine, or both.

17 (2) A second conviction for violating the provisions of this part shall be punishable by
18 impoundment of the motor vehicle, a \$500.00 fine, or both.

19 (3) A third conviction for violating the provisions of this part shall be punishable by
20 confiscation of the motor vehicle, a \$1,000.00 fine, or both."

21 **SECTION 2.**

22 This Act shall become effective on January 1, 2009.

23 **SECTION 3.**

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