

The Senate Natural Resources and the Environment Committee offered the following substitute to SB 389:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated,
2 relating to the registration, operation, and sale of watercraft generally, so as to revise
3 provisions relating to operation of personal watercraft; to revise provisions relating to
4 operation of watercraft; to revise certain provisions relating to boating safety and educational
5 programs; to revise certain provisions relating to penalties for criminal violations; to enact
6 the "Boating Safety Education Act"; to provide a short title; to provide definitions; to provide
7 for requirements and applicability; to provide for enforcement and penalties; to provide for
8 lease and rental agreements; to provide for issuance of rules and regulations by the
9 Department of Natural Resources; to provide for related matters; to provide for effective
10 dates; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to the
13 registration, operation, and sale of watercraft generally, is amended by revising Code
14 Section 52-7-8.2, relating to restrictions on operating personal watercraft, as follows:
15

16 "52-7-8.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 ~~(j)~~(i) No person shall operate a personal watercraft on the waters of this state at a speed
4 greater than idle speed within 100 feet of any moored or anchored vessel, any vessel adrift,
5 or any wharf, dock, pier, piling, bridge structure or abutment, person in the water, or
6 shoreline adjacent to a full-time or part-time residence, public park, public beach, public
7 swimming area, marina, restaurant, or other public use area.

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

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

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

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

30 SECTION 2.

31 Said article is further amended by revising Code Section 52-7-8.3, relating to operation of
32 watercraft, as follows:

33 "52-7-8.3.

34 (a) ~~A~~ No person age 16 or over may 16 years of age or older shall operate any vessel or
35 personal watercraft on any of the waters of this state, ~~and~~ unless such person shall have in
36 such vessel proper identification of himself or herself.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 SECTION 3.

34 Said article is further amended by designating Code Sections 52-7-1 through 52-7-3 as Part 1
 35 of said article, designating Code Sections 52-7-4 through 52-7-21 as Part 2 of said article,
 36 and designating Code Sections 52-7-23 through 52-7-26 as Part 4 of said article.

1 (4) Possesses a rental agreement or lease agreement provided pursuant to Code
 2 Section 52-7-22.3 which lists the person as an authorized operator of the power boat;

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

6 (6) Is a person who operates a vessel under supervised training, as authorized by the
 7 state.

8 52-7-22.2.

9 (a) Any person born on or after January 1, 1990, operating a power boat on any waters of
 10 this state and stopped by a law enforcement officer in the enforcement of this part or the
 11 regulations adopted pursuant thereto shall present to the officer evidence that the
 12 requirements of Code Section 52-7-22.1 have been met. Failure of such person to present
 13 such evidence shall constitute prima facie evidence of a violation of Code
 14 Section 52-7-22.1.

15 (b) Any person born on or after January 1, 1990, who fails to present the certificate or
 16 other document as evidence that the requirements of Code Section 52-7-22.1 have been met
 17 shall be guilty of a misdemeanor unless such person presents the required documents in a
 18 court having jurisdiction over the offense that prove such person was operating such power
 19 boat in compliance with Code Section 52-7-22.1 on the date of the violation.

20 (c) In any proceeding for a violation of this part, the court having jurisdiction over the
 21 offense may suspend all or part of the fine to be imposed on the defendant if the defendant
 22 completes the safe boating education course specified in paragraph (1) of Code
 23 Section 52-7-22.1 within the time limits imposed by the court.

24 52-7-22.3.

25 (a) A person or his or her agent or employee engaged in the business of renting or leasing
 26 power boats for a period not exceeding 30 days shall not rent or lease a power boat to any
 27 person for operation on the waters of this state unless such person:

28 (1) Meets the provisions of Code Section 52-7-22.1; and

29 (2) Is 16 years of age or older.

30 (b) A person or his or her agent or employee engaged in the business of renting or leasing
 31 power boats shall list on each rental or lease agreement for a power boat the name and age
 32 of each person who is authorized to operate such power boat. The person to whom the
 33 power boat is rented or leased shall ensure that only those persons who are listed as
 34 authorized operators are allowed to operate such power boat.

1 (c) A person or his or her agent or employee engaged in the business of renting or leasing
 2 power boats shall provide to each authorized operator of a power boat a summary of the
 3 statutes and regulations governing the operation of a power boat and instructions regarding
 4 the safe operation of such power boat. Each person who is listed as an authorized operator
 5 of the power boat shall review the summary of the statutes, regulations, and instructions
 6 before the power boat departs from the rental or leasing office.

7 (d) A person or his or her agent or employee engaged in the business of renting or leasing
 8 power boats may utilize a rental safety checklist which highlights the most important
 9 boating safety rules and require the person to whom the power boat is rented to initial each
 10 section to prove that he or she has read it and is aware of the safety issues."

11 **SECTION 5.**

12 Said article is further amended by revising Code Section 52-7-26, relating to penalties for
 13 criminal violations relative to registration, operation, and sale of watercraft, as follows:

14 "52-7-26.

15 Except as otherwise provided in this article, any person who violates this article or any rule
 16 or regulation promulgated hereunder shall be guilty of a misdemeanor. The court having
 17 jurisdiction of the offense shall, as a condition of any period of probation imposed, require
 18 such person to successfully complete the safe boating education course specified in
 19 paragraph (1) of Code Section 52-7-22.1."

20 **SECTION 6.**

21 (a) This section and Section 7 of this Act shall become effective on July 1, 2008.

22 (b) Sections 1 through 5 of this Act shall become effective on July 1, 2009; provided,
 23 however, that as soon as practicable after July 1, 2008, the Board of Natural Resources shall
 24 adopt necessary rules and regulations to carry out the provisions of Section 4 of this Act,
 25 including provisions for issuance of certificates, duplicate certificates, record keeping,
 26 cooperative agreements, name and address changes, and the establishment of fees for boating
 27 safety courses and certificates. The Department of Natural Resources shall have its testing
 28 and certifying procedures in place and functioning before January 1, 2009, in order to allow
 29 boaters to comply with the provisions of Section 4 of this Act before July 1, 2009.

30 **SECTION 7.**

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