

The House Committee on Judiciary Non-civil offers the following substitute to HB 315:

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 general provisions regarding the registration, operation, and sale of watercraft, so
3 as to provide that it shall be a violation of law if a person's alcohol concentration is 0.08
4 grams or more at any time within three hours after operating, navigating, steering, driving,
5 manipulating, or being in actual physical control of a moving vessel, moving water skis,
6 moving aquaplane, moving surfboard, or similar moving device from alcohol consumed
7 before such operating, navigating, steering, driving, manipulating, or being in actual physical
8 control ended; to provide for certain presumptions at trial of such cases; to change similar
9 provisions relating to implied consent; to provide for related matters; to provide an effective
10 date and for applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to
14 general provisions regarding the registration, operation, and sale of watercraft, is amended
15 by revising subsections (a) and (d) of Code Section 52-7-12, relating to operation of
16 watercraft while under influence of alcohol or drugs, as follows:

17 "(a) No person shall operate, navigate, steer, or drive any moving vessel, or be in actual
18 physical control of any moving vessel, nor shall any person manipulate any moving water
19 skis, moving aquaplane, moving surfboard, or similar moving device while:

20 (1) Under the influence of alcohol to the extent that it is less safe for the person to
21 operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving
22 vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving
23 device;

24 (2) Under the influence of any drug to the extent that it is less safe for the person to
25 operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving

26 vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving
27 device;

28 (3) Under the combined influence of alcohol and any drug to the extent that it is less safe
29 for the person to operate, navigate, steer, drive, manipulate, or be in actual physical
30 control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or
31 similar moving device;

32 (4) The person's alcohol concentration is ~~0.10~~ 0.08 grams or more at any time within
33 three hours after such operating, navigating, steering, driving, manipulating, or being in
34 actual physical control of a moving vessel, moving water skis, moving aquaplane,
35 moving surfboard, or similar moving device from alcohol consumed before such
36 operating, navigating, steering, driving, manipulating, or being in actual physical control
37 ended; or

38 (5) Subject to the provisions of subsection (b) of this Code section, there is any amount
39 of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in
40 the person's blood or urine, or both, including the metabolites and derivatives of each or
41 both without regard to whether or not any alcohol is present in the person's breath or
42 blood."

43 "(d) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged
44 to have been committed by any person while operating, navigating, steering, driving,
45 manipulating, or being in actual physical control of a moving vessel, moving water skis,
46 moving aquaplane, moving surfboard, or similar moving device while under the influence
47 of alcohol, the amount of alcohol in the person's blood at the time alleged, as shown by
48 chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give
49 rise to the following presumptions:

50 (1) If there was at that time an alcohol concentration of 0.05 grams or less, it shall be
51 presumed that the person was not under the influence of alcohol, as prohibited by
52 paragraphs (1), (2), and (3) of subsection (a) of this Code section;

53 (2) If there was at that time an alcohol concentration in excess of 0.05 grams but less
54 than 0.08 grams, such fact shall not give rise to any presumption that the person was or
55 was not under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of
56 subsection (a) of this Code section, but such fact may be considered with other competent
57 evidence in determining whether the person was under the influence of alcohol, as
58 prohibited by paragraphs (1), (2), and (3) of subsection (a) of this Code section;

59 (3) If there was at that time an alcohol concentration of 0.08 grams or more, it shall be
60 presumed that the person was under the influence of alcohol, as prohibited by paragraphs
61 (1), (2), and (3) of subsection (a) of this Code section; and

62 (4) If there was at that time or within three hours after operating, navigating, steering,
 63 driving, manipulating, or being in actual physical control of a moving vessel, moving
 64 water skis, moving aquaplane, moving surfboard, or similar moving device from alcohol
 65 consumed before such operating, navigating, steering, driving, manipulating, or being in
 66 actual physical control ended an alcohol concentration of ~~0.10~~ 0.08 or more grams, the
 67 person shall be in violation of paragraph (4) of subsection (a) of this Code section."

68 **SECTION 2.**

69 Said article is further amended by revising paragraph (2) of subsection (b), subsection (d),
 70 and subparagraph (g)(2)(B) of Code Section 52-7-12.5, relating to ordering drug or alcohol
 71 tests, implied consent notice, reports, suspension, hearing, and certificate of inspection; as
 72 follows:

73 "(2) Implied consent notice for suspects age 21 or over:

74 'Georgia law requires you to submit to state administered chemical tests of your blood,
 75 breath, urine, or other bodily substances for the purpose of determining if you are under
 76 the influence of alcohol or drugs. If you refuse this testing, your privilege to operate
 77 a vessel on the waters of this state will be suspended for a minimum period of one year.
 78 Your refusal to submit to the required testing may be offered into evidence against you
 79 at trial. If you submit to testing, the results of that test or tests may be used against you.
 80 If the results of such test or tests indicate an alcohol concentration of ~~0.10~~ 0.08 grams
 81 or more or the presence of any illegal drug, your privilege to operate a vessel on the
 82 waters of this state may be suspended for a minimum period of one year. After first
 83 submitting to the required state tests, you are entitled to additional chemical tests of
 84 your blood, breath, urine, or other bodily substances at your own expense and from
 85 qualified personnel of your own choosing. Will you submit to the state administered
 86 chemical tests of your (designate which tests) under the implied consent law?"

87 "(d) If a person under arrest or a person who was involved in any boating accident
 88 resulting in serious injuries or fatalities submits to a chemical test upon the request of a law
 89 enforcement officer and the test results indicate that a suspension of the privilege of
 90 operating a vessel on the waters of this state is required under this Code section, the results
 91 shall be reported to the department. Upon the receipt of a sworn report of the law
 92 enforcement officer that the officer had reasonable grounds to believe the arrested person
 93 had been operating or was in actual physical control of a moving vessel upon the waters
 94 of this state in violation of Code Section 52-7-12 or that such person had been operating
 95 or was in actual physical control of a moving vessel upon the waters of this state and was
 96 involved in a boating accident involving serious injuries or fatalities and that the person
 97 submitted to a chemical test at the request of the law enforcement officer and the test

98 results indicate either an alcohol concentration of ~~0.10~~ 0.08 grams or more or, for a person
99 under the age of 21, an alcohol concentration of 0.02 grams or more, and the vessel being
100 operated was a motorized vessel having ten or more horsepower or was a sailboat more
101 than 12 feet in length, the department shall suspend the person's privilege to operate a
102 vessel upon the waters of this state pursuant to Code Section 52-7-12.6, subject to review
103 as provided for in this Code section."

104 "(B) Whether at the time of the request for the test or tests the officer informed the
105 person of the person's implied consent rights and the consequence of submitting or
106 refusing to submit to such test and:

107 (i) Whether the person refused the test; or

108 (ii) Whether a test or tests were administered and the results indicated an alcohol
109 concentration of ~~0.10~~ 0.08 grams or more or, for a person under the age of 21, an
110 alcohol concentration of 0.02 grams or more; and"

111 **SECTION 3.**

112 This Act shall become effective upon its approval by the Governor or upon its becoming law
113 without such approval and shall apply to all violations occurring on and after such date.

114 **SECTION 4.**

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