

## House Bill 315 (COMMITTEE SUBSTITUTE)

By: Representatives Cooke of the 18<sup>th</sup>, Bearden of the 68<sup>th</sup>, Burns of the 157<sup>th</sup>, Brockway of the 101<sup>st</sup>, McCall of the 30<sup>th</sup>, and others

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

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

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

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

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

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

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

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

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

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

## SECTION 2.

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

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

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

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