

House Bill 777

By: Representatives Powell of the 32nd, McCall of the 33rd, Burns of the 159th, Bryant of the 162nd, Harbin of the 122nd, and others

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 provide for suspension of privileges
3 to operate a vessel upon the waters of this state for violations of vessel laws of this state and
4 other states; to provide for penalties; to provide for the enactment of the Interstate Boating
5 Violator Compact; to state the purpose of such compact; to provide for findings; to provide
6 for definitions; to provide procedures for issuing citations for vessel violations to violators
7 who are residents of compact states; to provide for procedures for enforcement of citations
8 under the compact; to provide for reciprocal recognition of suspension of privileges; to
9 provide for procedures for compact administration; to provide for entry into and withdrawal
10 from such compact; to provide for amendments to such compact; to provide for construction
11 and severability of such compact; to provide for a short title of such compact; to provide for
12 rules and regulations; to provide for related matters; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

16 Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to the registration,
17 operation, and sale of watercraft, is amended by adding a new Code section to read as
18 follows:

19 "52-7-12.7.

20 (a) Except as provided for in Code Sections 52-7-12, 52-7-12.5, and 52-7-12.6, and
21 notwithstanding criminal proceedings that may be initiated by law, upon a determination
22 by the department that a person has violated this chapter or any rule or regulation
23 promulgated pursuant thereto, is in noncompliance with a citation issued by another state
24 regarding the operation of a vessel, or is suspended by another state from operating a
25 vessel, the department may suspend such person's privilege to operate a vessel upon the
26 waters of this state for a period of up to two years following the determination of such

27 violation, or if the suspension is due to noncompliance with a citation or a suspension
 28 regarding the operation of a vessel in another state, then such person's privilege to operate
 29 a vessel upon the waters of this state may remain suspended until satisfactory evidence of
 30 compliance or restoration of privileges from the other state has been received by the
 31 department as such satisfactory evidence is determined by rules and regulations of the
 32 department. Such person shall be notified of the proposed suspension personally or by a
 33 letter sent by certified mail or statutory overnight delivery at such person's last known
 34 address. The notice shall inform such person of the grounds of suspension, the effective
 35 date of the suspension, and the right to review. The notice shall be deemed received three
 36 days after mailing. The proposed suspension shall become final 30 days after issuance of
 37 notice if the proposed suspension is not appealed as provided in this Code section.

38 (b) Any person whose privilege is proposed for suspension shall, upon petition within 30
 39 days of issuance of notice given as stated in subsection (a) of this Code section, have a
 40 right to a hearing before an administrative law judge appointed by the board. The hearing
 41 before the administrative law judge shall be conducted in accordance with Chapter 13 of
 42 Title 50, the 'Georgia Administrative Procedure Act,' and the rules and regulations adopted
 43 by the board pursuant thereto. The decision of the administrative law judge shall constitute
 44 the final decision of the board, and any party to the hearing, including the department, shall
 45 have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the
 46 'Georgia Administrative Procedure Act.'

47 (c) Any person who operates a vessel on any of the waters of this state at a time when such
 48 person's privilege to do so has been suspended under this Code section shall be subject to
 49 the provisions of subsection (c) of Code Section 52-7-12.6."

50 SECTION 2.

51 Said chapter is further amended by revising Code Section 52-7-26, relating to penalties, as
 52 follows:

53 "52-7-26.

54 (a) Except as otherwise provided in this article, any person who violates this article or any
 55 rule or regulation promulgated hereunder shall be guilty of a misdemeanor. For purposes
 56 of establishing criminal violations of the rules and regulations promulgated by the ~~Board~~
 57 ~~of Natural Resources~~ board as provided in this article, the term 'rules and regulations'
 58 means those rules and regulations of the ~~Board of Natural Resources~~ board in force and
 59 effect on ~~February 5, 2013~~ January 1, 2014.

60 (b) Notwithstanding subsection (c) of Code Section 17-6-12, the release of a person on his
 61 or her own recognizance for violations under Code Sections 52-7-12, 52-7-12.2, 52-7-12.3,
 62 and 52-7-12.4 shall be prohibited."

63 **SECTION 3.**

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

65 "ARTICLE 1A66 52-7-30.67 The Interstate Boating Violator Compact is enacted into law and entered into by the State
68 of Georgia with any and all states legally joining therein in accordance with its terms. The
69 compact is substantially as follows:70 INTERSTATE BOATING VIOLATOR COMPACT71 ARTICLE I. FINDINGS, DECLARATION OF POLICY, AND PURPOSE72 (a) The party states find that:73 (1) Boating activities on public waters are managed by the respective states for the
74 benefit of all residents and visitors;75 (2) The benefits of boating activities on public waters can be materially affected by the
76 degree of compliance with state statute, law, regulation, ordinance, or administrative rule
77 relating to the management of those activities;78 (3) The management of boating activities on public waters contributes immeasurably to
79 the aesthetic, recreational, and economic aspects of the respective states;80 (4) Boating activities on public waters are valuable without regard to political
81 boundaries. Therefore, all persons should be required to comply with boating laws,
82 ordinances, and administrative rules and regulations of all party states as a condition
83 precedent to the privilege of operating watercraft on public waters;84 (5) Violation of boating laws interferes with the management of boating activities on
85 public waters and may endanger the safety of persons and property;86 (6) The mobility of many boating law violators necessitates the maintenance of channels
87 of communication among the respective states;88 (7) In most instances, a person who is cited for a boating violation in a state other than
89 the person's home state:90 (A) Must post collateral or bond to secure appearance for a trial at a later date;91 (B) If unable to post collateral or bond, is taken into custody until the collateral or bond
92 is posted; or93 (C) Is taken directly to court for an immediate appearance;94 (8) The purpose of the enforcement practices described in paragraph (7) of this
95 subsection is to ensure compliance with the terms of a boating citation by the person who,

96 if permitted to continue on the person's way after receiving the citation, could return to
 97 the person's home state and disregard the person's duty under the terms of the citation;
 98 (9) In most instances, a person receiving a boating citation in the person's home state is
 99 permitted to accept the citation from the officer at the scene of the violation and to
 100 immediately continue on the person's way after agreeing or being instructed to comply
 101 with the terms of the citation;

102 (10) The practice described in paragraph (7) of this subsection causes unnecessary
 103 inconvenience and, at times, a hardship for the person who is unable at the time to post
 104 collateral, furnish a bond, stand trial, or pay the fine and thus is compelled to remain in
 105 custody until some alternative arrangement can be made; and

106 (11) The enforcement practices described in paragraph (7) of this subsection consume
 107 an undue amount of law enforcement time.

108 (b) It is the policy of the party states to:

109 (1) Promote compliance with the statutes, laws, ordinances, regulations, and
 110 administrative rules relating to boating activities on public waters in their respective
 111 states;

112 (2) Recognize the suspension of vessel operating privileges of any person whose vessel
 113 operating privileges have been suspended by a party state and treat the suspension as if
 114 it had occurred in their state;

115 (3) Allow violators to accept a boating citation, except as provided in subsection (b) of
 116 Article III of this compact, and proceed on the violator's way without delay whether or
 117 not the violator is a resident in the state in which the citation was issued, provided that
 118 the violator's home state is party to this compact;

119 (4) Report to the appropriate party state, as provided in the compact manual, any boating
 120 conviction recorded against a person whose home state was not the issuing state;

121 (5) Allow the home state to recognize and treat boating convictions recorded for their
 122 residents which occurred in another party state as if they had occurred in the home state;

123 (6) Extend cooperation to its fullest extent among the party states for obtaining
 124 compliance with the terms of a boating citation issued in one party state to a resident of
 125 another party state;

126 (7) Maximize effective use of law enforcement personnel and information; and

127 (8) Assist court systems in the efficient disposition of boating violations.

128 (c) The purposes of this compact are to:

129 (1) Provide a means through which the party states may participate in a reciprocal
 130 program to effectuate policies enumerated in subsection (b) of this article in a uniform
 131 and orderly manner; and

132 (2) Provide for the fair and impartial treatment of boating violators operating within
 133 party states in recognition of the person's right of due process and the sovereign status of
 134 a party state.

135 ARTICLE II. DEFINITIONS

136 Unless the context requires otherwise, the following definitions in this article apply through
 137 this compact and are intended only for the implementation of this compact:

138 (1) "Boating activity" means any activity involving the operation of a vessel on waters
 139 of the state.

140 (2) "Boating authority" means the department or division within each party state which
 141 is authorized by law to regulate the operation of vessels on waters of the state.

142 (3) "Boating law" means any statute, law, regulation, ordinance, or administrative rule
 143 developed and enacted to regulate boating activities on public waters.

144 (4) "Boating violation" means any cited violation of a statute, law, regulation, ordinance,
 145 or administrative rule developed and enacted to regulate the operation of a vessel on
 146 public waters.

147 (5) "Citation" means any summons, complaint, ticket, penalty assessment, or other
 148 official document issued by a law enforcement officer for a boating violation containing
 149 an order which requires the person to respond.

150 (6) "Collateral" means any cash or other security deposited to secure an appearance for
 151 trial, in connection with the issuance by a law enforcement officer of a citation for a
 152 boating violation.

153 (7) "Compliance" with respect to a citation means the act of answering the citation
 154 through appearance at a court or a tribunal or payment of fines, costs, and surcharges, if
 155 any, or both such appearance and payment.

156 (8) "Conviction" means a conviction, including any court conviction, for an offense
 157 related to the operation of watercraft on public waters which is prohibited by state statute,
 158 law, regulation, ordinance, or administrative rule; a forfeiture of bail, bond, or other
 159 security deposited to secure appearance by a person charged with having committed any
 160 such offense; payment of a penalty assessment; a plea of nolo contendere; or the
 161 imposition of a deferred or suspended sentence by the court.

162 (9) "Court" means any court of law, including magistrate courts.

163 (10) "Home state" means the state of primary residence of a person.

164 (11) "Issuing state" means the party state which issues a boating citation to the violator.

165 (12) "License" means any license, permit, registration, certificate of operation, or other
 166 public document or privilege that conveys to or allows a person to operate any vessel

167 regulated by statute, law, regulation, ordinance, or administrative rule of a participating
 168 state.

169 (13) "Officer" means any individual authorized by a party state to issue a citation for a
 170 boating violation.

171 (14) "Operate" means to navigate or otherwise use a vessel which is not at anchor or
 172 moored, including vessels which are being paddled, are drifting, or are being powered by
 173 machinery.

174 (15) "Party state" means any state which enacts legislation to become a member of this
 175 boating compact.

176 (16) "Personal recognizance" means an agreement by a person made at the time of
 177 issuance of the boating citation that the person will comply with the terms of that citation.

178 (17) "State" means any state, territory, or possession of the United States, including the
 179 District of Columbia and the Commonwealth of Puerto Rico.

180 (18) "Suspension" means any revocation, denial, or withdrawal of any or all vessels or
 181 water device operating privileges.

182 (19) "Terms of the citation" means those conditions and options expressly stated upon
 183 the citation.

184 (20) "Vessel" means every description of watercraft, other than a seaplane on the water
 185 or a sailboard, used or capable of being used as a means of transportation on the water
 186 and specifically includes, but is not limited to, inflatable rafts and homemade vessels.

187 ARTICLE III. PROCEDURES FOR ISSUING STATE

188 (a) When issuing a citation for a boating violation, an officer shall issue a citation to any
 189 person whose primary residence is in a party state in the same manner as if the person were
 190 a resident of the home state and shall not require the person to post collateral to secure
 191 appearance, subject to the exceptions contained in subsection (b) of this article, if the
 192 officer receives the person's personal recognizance that the person will comply with the
 193 terms of the citation.

194 (b) Personal recognizance is acceptable:

195 (1) If it is not prohibited by local law or the compact manual; and

196 (2) If the violator provides adequate proof of the violator's identification to the officer.

197 (c) Upon conviction or failure of a person to comply with the terms of a boating citation,
 198 the appropriate official shall report the conviction or failure to comply to the boating
 199 authority of the party state in which the boating citation was issued. The report shall be
 200 made in accordance with procedures specified by the issuing state and shall contain the

201 information specified in the compact manual as minimum requirements for effective
202 processing by the home state.

203 (d) Upon receipt of the report of conviction or noncompliance required by subsection (c)
204 of this article, the boating authority of the issuing state shall transmit to the boating
205 authority in the home state of the violator the information in a form and content as
206 contained in the compact manual adopted by the Board of Natural Resources as a rule.

207 ARTICLE IV. PROCEDURES FOR HOME STATE

208 (a) Upon receipt of a report of failure to comply with the terms of a citation from the
209 boating authority of the issuing state, the boating authority of the home state shall notify
210 the violator, shall initiate a suspension action in accordance with the home state's
211 suspension procedures, and shall suspend the violator's vessel operating privileges and
212 licenses until satisfactory evidence of compliance with the terms of the boating citation has
213 been furnished by the issuing state to the home state's boating authority. Due process
214 safeguards shall be accorded.

215 (b) Upon receipt of a report of conviction from the boating authority of the issuing state,
216 the boating authority of the home state shall enter the conviction in its records and shall
217 treat the conviction as if it occurred in the home state for the purposes of the suspension
218 of vessel operating privileges and licenses.

219 (c) The boating authority of the home state shall maintain a record of actions taken and
220 make reports to issuing states as provided in the compact manual.

221 ARTICLE V. RECIPROCAL RECOGNITION OF SUSPENSION

222 (a) All party states shall recognize the suspension of vessel operating privileges and
223 licenses of any person by any state as if the violation on which the suspension is based
224 occurred in their state and could have been the basis for suspension of vessel operating
225 privileges and licenses in their state.

226 (b) Each participating state shall communicate suspension information to other
227 participating states in a form and content as contained in the compact manual.

228 ARTICLE VI. APPLICABILITY OF OTHER LAWS

229 Except as expressly required by provisions of this compact, nothing in this compact shall
230 be construed to affect the right of any party state to apply any of its laws relating to vessel
231 operating privileges to a person or circumstance or to invalidate or prevent any agreement

232 or other cooperative arrangements between a party state and a nonparty state concerning
233 boating law enforcement.

234 ARTICLE VII. COMPACT ADMINISTRATOR PROCEDURES

235 (a) For the purpose of administering the provisions of this compact and to serve as a
236 governing body for the resolution of all matters relating to the operation of this compact,
237 a board of boating compact administrators is established. The board of boating compact
238 administrators shall be composed of one representative from each of the party states to be
239 known as the boating compact administrator. The boating compact administrator shall be
240 appointed by the head of the boating authority of each party state and shall serve and be
241 subject to removal in accordance with the laws of the state the boating compact
242 administrator represents. A boating compact administrator may provide for the discharge
243 of the administrator's duties and the performance of the administrator's functions as a board
244 member by an alternate. An alternate shall not be entitled to serve unless written
245 notification of the alternate's identity has been given to the board of boating compact
246 administrators.

247 (b) Each member of the board of boating compact administrators is entitled to one vote.
248 No action of the board of boating compact administrators is binding unless taken at a
249 meeting at which a majority of the total number of votes on the board are cast in favor
250 thereof. Action by the board of boating compact administrators shall be only at a meeting
251 at which a majority of the party states are represented.

252 (c) The board of boating compact administrators shall elect annually, from its membership,
253 a chairperson and vice chairperson.

254 (d) The board of boating compact administrators shall adopt bylaws, not inconsistent with
255 the provisions of this compact or the laws of a party state, for the conduct of its business
256 and shall have the power to amend and rescind its bylaws.

257 (e) The board of boating compact administrators may accept for any of its purposes and
258 functions under this compact all donations and grants of money, equipment, supplies,
259 materials, and services, conditional or otherwise, from any state, the United States, or any
260 governmental agency and may receive, utilize, and dispose of the same.

261 (f) The board of boating compact administrators may contract with or accept services or
262 personnel from any governmental or intergovernmental agency, individual, firm,
263 corporation, or any private nonprofit organization or institution.

264 (g) The board of boating compact administrators shall formulate all necessary procedures
265 and develop uniform forms and documents for administering the provisions of this

266 compact. All procedures and forms adopted pursuant to the board of boating compact
 267 administrators' action shall be contained in the compact manual.

268 ARTICLE VIII. ENTRY INTO COMPACT AND WITHDRAWAL

269 (a) This compact shall become effective when it has been adopted by at least two states.

270 (b)(1) Entry into the compact shall be made by resolution of ratification executed by the
 271 authorized officials of the applying state and submitted to the chairperson of the board
 272 of boating compact administrators.

273 (2) The resolution shall be in a form and content as provided in the compact manual and
 274 shall include statements that in substance are as follows:

275 (A) A citation of the authority by which the state is empowered to become a party to
 276 this compact;

277 (B) Agreement to comply with the terms and provisions of the compact; and

278 (C) That compact entry is with all states then party to the compact and with any state
 279 that legally becomes a party to the compact.

280 (3) The effective date of entry shall be specified by the applying state but shall not be
 281 less than 60 days after notice has been given by the chairperson of the board of boating
 282 compact administrators or by the secretariat of the board to each party state that the
 283 resolution from the applying state has been received.

284 (c) A party state may withdraw from this compact by official written notice to the other
 285 party states, but a withdrawal shall not take effect until 90 days after notice of withdrawal
 286 is given. The notice shall be directed to the boating compact administrator of each member
 287 state. No withdrawal shall affect the validity of this compact as to the remaining party
 288 states.

289 ARTICLE IX. AMENDMENTS TO THE COMPACT

290 (a) This compact may be amended from time to time. Amendments shall be presented in
 291 resolution form to the chairperson of the board of boating compact administrators and may
 292 be initiated by one or more party states.

293 (b) Adoption of an amendment shall require endorsement by all party states and shall
 294 become effective 30 days after the date of the last endorsement.

295 ARTICLE X. CONSTRUCTION AND SEVERABILITY

296 This compact shall be liberally construed so as to effectuate the purposes stated in it. The
297 provisions of this compact are severable, and if any phrase, clause, sentence, or provision of
298 this compact is declared to be contrary to the constitution of any party state or of the United
299 States or the applicability of it to any government, agency, individual, or circumstance is held
300 invalid, the compact shall not be affected by it. If this compact is held contrary to the
301 constitution of any party state to it, the compact shall remain in full force and effect as to the
302 remaining states and in full force and effect as to the state affected as to all severable matters.

303 ARTICLE XI. TITLE

304 This compact shall be known as the "Interstate Boating Violator Compact."

305 52-7-31.

306 (a) The commissioner shall appoint the boating compact administrator for this state. The
307 boating compact administrator shall serve at the pleasure of the commissioner.

308 (b) The department may suspend the operating privileges of any person to operate a vessel
309 upon the waters of this state as provided for in Code Section 52-7-12.7 to the extent that
310 such person's privileges to operate a vessel upon the waters of a compact member state
311 have been suspended.

312 (c) The board shall make and publish such rules and regulations, not inconsistent with law,
313 as it deems necessary to carry out the purposes of this article."

314 **SECTION 4.**

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