

House Bill 201

By: Representatives Hogan of the 179th, Petrea of the 166th, Williams of the 148th, Mathiak of the 73rd, Williams of the 168th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 52 of the Official Code of Georgia Annotated, relating to waters of the state,
2 ports, and watercraft, so as to provide definitions; to authorize the Board of Natural
3 Resources to promulgate rules and regulations regarding anchoring certain vessels within
4 estuarine areas of the state; to authorize the Department of Natural Resources to establish
5 anchorage areas; to provide that it shall be unlawful for persons to dock or anchor vessels in
6 certain areas; to prohibit the discharge of sewage into estuarine areas from certain vessels;
7 to require certain equipment for such vessels; to require certain record-keeping; to provide
8 for the disposition of certain funds; to provide for exceptions and exemptions; to provide for
9 legislative intent; to amend Part 4 of Article 4 of Chapter 5 of Title 12 of the Official Code
10 of Georgia Annotated, relating to coastal marshlands, so as to conform certain provisions;
11 to provide for an effective date; to provide for related matters; to repeal conflicting laws; and
12 for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and
16 watercraft, is amended in Article 1 of Chapter 7, relating to general provisions regarding the
17 registration, operation, and sale of watercraft, by adding a new Code section to read as
18 follows:

19 "52-7-8.4.

20 (a) The General Assembly finds that, because of the frequency of live-aboard vessels
21 utilizing the estuarine areas of this state, it is necessary for the protection of the public
22 health, safety, and welfare to prohibit the discharge of sewage from such vessels into
23 estuarine areas of this state. It is declared to be the intent of the General Assembly to
24 protect and enhance the quality of the waters of such estuarine areas by requiring greater
25 environmental protection than is provided pursuant to Section 312 of the federal Water

26 Pollution Control Act, as amended, such that any discharge of sewage from a live-aboard
27 vessel into the waters of such estuarine areas shall be prohibited.

28 (b) As used in this Code section, the term:

29 (1) 'Anchorage areas' means those areas established by the department within estuarine
30 areas whereby a vessel may anchor at night.

31 (2) 'Eligible facility' means a dock facility with a vessel sewage pumpout disposal system
32 approved by the department.

33 (3) 'Estuarine areas' means all tidally influenced waters, marshes, and marshlands lying
34 within a tide-elevation range from 5.6 feet above mean tide level and below.

35 (4) 'Live-aboard vessel' means a floating vessel or other watercraft capable of safe,
36 mechanically propelled navigation under average Georgia coastal wind and current
37 conditions which is utilized as a human or animal abode.

38 (5) 'Night' means between the hours of 30 minutes after sunset and 30 minutes before
39 sunrise.

40 (c) The board is authorized to adopt and promulgate rules and regulations relating to
41 overnight or long-term anchoring within the estuarine areas of this state to include the
42 establishment of an anchorage permit.

43 (d) The department is authorized to establish anchorage areas within the estuarine areas
44 of this state as well as areas where anchoring is not allowed.

45 (e) It shall be unlawful for any person to dock or anchor at night any vessel within the
46 estuarine areas of this state unless it is in an anchorage area established by the department
47 and in compliance with all rules and regulations adopted by the board pursuant to this Code
48 section or at an eligible facility. Nothing in this Code section shall prohibit short-term
49 anchoring for fishing or similar activities, nor shall it prohibit the owner of a vessel from
50 docking at a private recreational dock or noneligible facility so long as such vessel is not
51 utilized as a live-aboard vessel.

52 (f) It shall be unlawful for any person to operate or float any live-aboard vessel within the
53 estuarine areas of this state, whether anchored or not, from which sewage, treated or
54 untreated, is discharged into such estuarine areas.

55 (g) It shall be unlawful to operate or float any live-aboard vessel within the estuarine areas
56 of this state, whether anchored in an anchorage area or at an eligible facility, which has
57 located within or on such vessel a Type I, Type II, or Type III Marine Sanitation Device,
58 as defined in 33 C.F.R. 159, unless such device has a secured mechanism which is
59 constructed and installed in such a manner that it can be emptied only by pumping out to
60 prevent discharge of treated and untreated sewage or is equipped with a holding tank, as
61 such term is defined in Code Section 52-7-3. Examples of secured mechanisms considered
62 to be effective at preventing discharges include, but are not limited to, closing the seacock

63 and padlocking, using a non-releasable wire tie, or removing the seacock handle with the
 64 seacock in the closed position.

65 (h) Persons operating or floating live-aboard vessels with marine toilets and subject to the
 66 requirements of this Code section shall create and maintain for at least one year after
 67 creation records which indicate the name and location of pump-out facilities used and the
 68 dates of such use. Persons who own or operate pump-out facilities shall also create a
 69 record and maintain, for at least one year after creation, records which indicate the name
 70 and vessel registration number, the date of pump-out, and verification of pump-out for each
 71 vessel for which pump-out services are performed.

72 (i) Notwithstanding any other provision of law to the contrary, and pursuant to the
 73 provisions of Code Section 45-12-92.1, the department is authorized to retain all funds
 74 generated by the sale of anchorage permits for use in the operation of an abandoned and
 75 derelict vessels program, provided that nothing in this Code section shall be construed so
 76 as to allow the department to retain any funds required by the Constitution to be paid into
 77 the state treasury and, provided, further, that the department shall comply with all
 78 provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except for Code
 79 Section 45-12-92, prior to expending any such miscellaneous funds.

80 (j) In the event that any provision of this Code section is found to conflict with the federal
 81 Water Pollution Control Act, as now or hereafter amended, such federal act shall control.

82 (k) No part of this Code section shall restrict the ability of vessels to seek safe harbor in
 83 the event of dangerous weather or mechanical failure. A reasonable period of time
 84 whereby a vessel owner may seek safe harbor shall not exceed seven days.

85 (l) Exemptions to the requirements in this Code section may be granted by the department
 86 for unique circumstances such as, but not limited to, certain commercial or educational
 87 activities. Conditional permission shall be granted by the commissioner or his or her
 88 designee."

89 **SECTION 2.**

90 Said title is further amended by revising paragraph (3) of Code Section 52-1-3 relating to
 91 definitions relating to protection of tidewaters, as follows:

92 "(3) 'Structure' means any structure located upon any tidewaters of this state, whether
 93 such structure is floating upon such tidewaters and is made fast by the use of lines, cables,
 94 anchors, or pilings, or any combination thereof, or is built upon pilings embedded in the
 95 beds of such tidewaters when such structure is being or has been used or is capable of
 96 being used as a place of habitation, dwelling, sojournment, or residence for any length
 97 of time; is not being used or is not capable of being used as a means of transportation
 98 upon such tidewaters; and is not owned, occupied, or possessed pursuant to a permit

99 issued by the commissioner pursuant to Code Section 52-1-10. Such structures may
 100 include, but are not limited to, vessels not being used in navigation; provided, however,
 101 that structures do not include ~~live-boards~~ live-aboard vessels, as defined in Code Section
 102 ~~12-5-282~~ 52-7-8.4. Structures shall also not include fishing camps, bait shops,
 103 restaurants, or other commercial establishments permitted under Part 4 of Article 4 of
 104 Chapter 5 of Title 12, the 'Coastal Marshlands Protection Act of 1970,' as amended,
 105 which do not discharge sewage into the waters of ~~the~~ this state and are operated in
 106 conformance with the zoning ordinances, if any, of the municipality or county in which
 107 they are located."

108 **SECTION 3.**

109 Said title is further amended by revising paragraph (4) of Code Section 52-1-32, relating to
 110 definitions regarding the right of passage, as follows:

111 "(4) 'Structure' means any structure located upon any navigable stream or river of this
 112 state, whether such structure is floating upon such navigable stream or river and is made
 113 fast by the use of lines, cables, anchors, or pilings, or any combination thereof, or is built
 114 upon pilings embedded in the beds of such navigable stream or river when such structure
 115 is being, has been, or is capable of being used as a place of habitation, dwelling,
 116 sojournment, or residence for any length of time; is not being used or is not capable of
 117 being used as a means of transportation upon such navigable stream or river; and is not
 118 owned, occupied, or possessed pursuant to a permit issued by the commissioner pursuant
 119 to Code Section 52-1-39. Such structures may include, but are not limited to, vessels not
 120 being used in navigation; provided, however, that structures do not include ~~live-boards~~
 121 live-aboard vessels, as defined in Code Section ~~12-5-282~~ 52-7-8.4. Structures shall also
 122 not include fishing camps, bait shops, restaurants, or other commercial establishments
 123 permitted under Part 4 of Article 4 of Chapter 5 of Title 12, the 'Coastal Marshlands
 124 Protection Act of 1970,' as amended, which do not discharge sewage into the waters of
 125 ~~the~~ this state and are operated in conformance with the zoning ordinances, if any, of the
 126 municipality or county in which they are located."

127 **SECTION 4.**

128 Part 4 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated,
 129 relating to coastal marshlands, is amended by revising paragraph (8) of Code
 130 Section 12-5-282, relating to definitions regarding coastal marshlands, as follows:

131 "~~(8) 'Live-aboard' means a floating vessel or other watercraft capable of safe,~~
 132 ~~mechanically propelled navigation under average Georgia coastal wind and current~~

133 ~~conditions which is utilized as a human or animal abode and is located at a marina or a~~
 134 ~~mooring area established by the department Reserved.~~"

135 **SECTION 5.**

136 Said part is further amended by revising subsection (b) of Code Section 12-5-288, relating
 137 to restriction on granting of permits, size restriction, and activities and structures considered
 138 contrary to public interest, as follows:

139 "(b) The amount of marshlands to be altered must be minimum in size. The following
 140 activities and structures are normally considered to be contrary to the public interest when
 141 located in coastal marshlands but the final decision as to whether any activity or structure
 142 is considered to be in the public interest shall be in the sound discretion of the committee:

143 (1) Filling of marshlands for residential, commercial, and industrial uses;

144 (2) Filling of marshlands for private parking lots and private roadways;

145 (3) Construction of dump sites and depositing of any waste materials or dredge spoil;

146 (4) Dredging of canals or ditches for the purpose of draining coastal marshlands;

147 (5) Mining;

148 (6) Construction of lagoons or impoundments for waste treatment, cooling, agriculture,
 149 or aquaculture which would occupy or damage coastal marshlands or life forms therein;

150 and

151 (7) Construction of structures which constitute an obstruction of view to adjoining
 152 riparian landowners, including signs and enclosures; ~~and~~

153 ~~(8) Occupying a live-aboard for more than 90 days during any calendar year; provided,~~
 154 ~~however, that the commissioner may grant extensions of time beyond 90 days to persons~~
 155 ~~making a request in writing stating the reasons for such extension. Owners of docks~~
 156 ~~where live-aboards are moored as well as owners and occupants of live-aboards are~~
 157 ~~responsible under this part."~~

158 **SECTION 6.**

159 This Act shall become effective on January 1, 2020.

160 **SECTION 7.**

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