

The House Committee on Judiciary Non-civil offers the following substitute to HB 777:

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 change provisions relating to penalties; to enact the Interstate Boating
5 Violator Compact; to provide for definitions; to provide the purpose of such compact; to
6 provide for findings; to provide procedures for issuing citations to violators who are residents
7 of compact states; to provide for procedures for enforcement of citations under the compact;
8 to provide for reciprocal recognition of suspension of privileges; to provide for procedures
9 for compact administration; to provide for entry into and withdrawal from such compact; to
10 provide for amendments to such compact; to provide for construction and severability of
11 such compact; to provide for rules and regulations; to provide for related matters; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

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

18 "52-7-12.7.

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

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

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

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

49 **SECTION 2.**

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

52 "52-7-26.

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

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

SECTION 3.

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

"ARTICLE 1A

52-7-30.

The Interstate Boating Violator Compact is enacted into law and entered into by the State of Georgia with any and all states legally joining therein in accordance with its terms. The compact is substantially as follows:

'INTERSTATE BOATING VIOLATOR COMPACT

ARTICLE I. TITLE

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

ARTICLE II. DEFINITIONS

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

(1) "Boating activities" means activities involving the operation of vessels on public waters.

(2) "Boating authority" means the board, department, or division within a party state which is authorized by law to regulate the operation of vessels.

(3) "Boating law" means laws, regulations, ordinances, or administrative rules developed and enacted to regulate boating activities.

(4) "Boating violation" means violation of laws, regulations, ordinances, or administrative rules developed and enacted to regulate the operation of vessels.

(5) "Citation" means summons, complaint, ticket, penalty assessment, or other official document containing an order which requires the person to respond.

(6) "Collateral" means cash or other security deposited to secure an appearance for trial, in connection with the issuance of a citation.

(7) "Compact manual" means the procedures, forms, and information adopted by rule by a boating authority.

(8) "Conviction" means an adjudication of guilt or a plea of guilty or nolo contendere to the commission of an offense related to the operation of vessels which is prohibited by the law, regulation, ordinance, or administrative rule of any state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto

Rico; a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense; or the imposition of a deferred or suspended sentence by a court, magistrate, or tribunal.

(9) "Home state" means the state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, that is the primary residence of a person.

(10) "Issuing state" means a party state which issues a citation.

(11) "License" means privilege to operate, permit, registration, certificate of operation, or other public document or privilege that conveys to or allows a person to operate by law, regulation, ordinance, or administrative rule of a party state.

(12) "Officer" means individuals authorized by a party state to issue a citation for a boating violation.

(13) "Operate" means navigating or otherwise using a vessel which is not at anchor or moored, including vessels which are being paddled, are drifting, or are being powered by machinery.

(14) "Party state" means any state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, which enacts legislation to become a member of the Interstate Boating Violator Compact.

(15) "Personal recognizance" means an agreement by a person made at the time of issuance of a citation that the person will comply with the conditions and options expressly stated in such citation.

(16) "Suspension" means any revocation, denial, or withdrawal of any license.

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

ARTICLE III. FINDINGS, DECLARATION OF POLICY, AND PURPOSE

(a) Party states find that:

(1) Boating activities are managed for the benefit of all residents and visitors;

(2) The benefits of boating activities can be materially affected by the degree that a citation is answered, through appearance at a court, magistrate, or tribunal and the payment of fines, costs, and surcharges, if any;

(3) The management of boating activities contributes immeasurably to the aesthetic, recreational, and economic aspects of party states;

(4) Boating activities are valuable without regard to political boundaries. Therefore, all persons should be required to comply with boating laws of party states as a condition precedent to the privilege to operate;

(5) Violation of boating laws interferes with the management of boating activities and may endanger the safety of persons and property;

(6) The mobility of people who violate boating laws necessitates the maintenance of channels of communication among party states;

(7) In most instances, when an issuing state is a location other than a home state, a person:

(A) Must post collateral or bond;

(B) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(C) Is taken directly to a court, magistrate, or tribunal for an immediate appearance;

(8) The purpose of the enforcement practices described in paragraph (7) of this subsection is to ensure that a citation is answered, through appearance at a court, magistrate, or tribunal and the payment of fines, costs, and surcharges, if any, by the person who, if permitted to continue on his or her way after receiving the citation, could return to his or her home state and disregard his or her duty under the conditions and options expressly stated in the citation;

(9) In most instances, a person receiving a citation in his or her home state is permitted to accept such situation from the officer at the scene and to immediately continue on the person's way after agreeing or being instructed to comply with the conditions and options expressly stated in the citation;

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

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

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

(1) Promote adherence to boating laws and have a citation answered through a court, magistrate, or tribunal appearance and the payment of fines, costs, and surcharges, if any;

(2) Recognize that any revocation, denial, or withdrawal of any license by a party state should be treated the same in all states, territories, and possessions of the United States, including the District of Columbia and the Commonwealth of Puerto Rico;

(3) Allow violators to accept a citation, except as provided in subsection (b) of Article IV of this compact, and proceed on the violator's way without delay whether or not the

violator is a resident where the citation was issued, provided that the home state of the violator is a party state;

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

(5) Allow a home state to recognize and treat convictions recorded for its residents which occurred in a party state as if they had occurred in the home state;

(6) Extend cooperation to its fullest extent among party states for having citations which are issued in a party state answered through court, magistrate, or tribunal appearances and the payment of fines, costs, and surcharges, if any;

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

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

(c) The purposes of this compact are to:

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

(2) Provide for the fair and impartial treatment of a person issued a citation within a party state in recognition of such person's right of due process and the sovereign status of such party state.

ARTICLE IV. PROCEDURES FOR ISSUING STATE

(a) A citation shall be issued in the same manner as if the person receiving such citation was a resident of the issuing state and shall not require the person to post collateral, subject to the exceptions contained in subsection (b) of this article, if the officer receives the person's personal recognizance.

(b) Personal recognizance is acceptable if:

(1) It is not prohibited by local law or the compact manual; and

(2) The violator provides adequate proof of his or her identification to the officer.

(c) Upon conviction or failure of a person to comply with the conditions and options expressly stated in a citation, the appropriate official shall report the conviction or failure to comply to the boating authority of the party state in which the citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or failure to comply as required by subsection (c) of this article, the boating authority of the issuing state shall transmit to the boating

197 authority of the home state the information in a form and content as contained in the
198 compact manual.

199 ARTICLE V. PROCEDURES FOR HOME STATE

200 (a) Upon receipt of a report of failure to comply with the conditions and options expressly
201 stated in a citation from the boating authority of the issuing state, the boating authority of
202 the home state shall notify the violator, shall initiate a suspension in accordance with the
203 home state's suspension procedures, and shall suspend the violator's license until
204 satisfactory evidence of compliance with the conditions and options expressly stated in
205 such citation has been furnished by the issuing state to the boating authority of the home
206 state. Due process safeguards shall be accorded.

207 (b) Upon receipt of a report of conviction from the boating authority of the issuing state,
208 the boating authority of the home state shall enter the conviction in its records and shall
209 treat the conviction as if it occurred in the home state for the purposes of a suspension.

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

212 ARTICLE VI. RECIPROCAL RECOGNITION OF SUSPENSION

213 (a) A party state shall recognize a suspension of any person by any state, territory, or
214 possession of the United States, including the District of Columbia and the Commonwealth
215 of Puerto Rico, as if the violation on which the suspension is based occurred in such party
216 state and could have been the basis for suspension in such party state.

217 (b) Each party state shall communicate suspension information to other party states in a
218 form and content as contained in the compact manual.

219 ARTICLE VII. APPLICABILITY OF OTHER LAWS

220 Except as expressly required by provisions of this compact, nothing in this compact shall
221 be construed to affect the right of a party state to apply any of its boating laws to a person
222 or circumstance or to invalidate or prevent any agreement or other cooperative
223 arrangements between a party state and any other state, territory, or possession of the
224 United States, including the District of Columbia and the Commonwealth of Puerto Rico,
225 concerning boating law enforcement.

ARTICLE VIII. COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of boating compact administrators is established. The board of boating compact administrators shall be composed of one representative from each party state to be known as the boating compact administrator. The boating compact administrator shall be appointed by the head of the boating authority and shall serve and be subject to removal in accordance with the laws of the state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, the boating compact administrator represents. A boating compact administrator may provide for the discharge of his or her duties and the performance of his or her functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of the alternate's identity has been given to the board of boating compact administrators.

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

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

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

(e) The board of boating compact administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, the United States, or any governmental agency and may receive, utilize, and dispose of the same.

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

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

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

263 ARTICLE IX. ENTRY INTO COMPACT AND WITHDRAWAL

264 (a) This compact shall become effective when it has been adopted by at least two states,
265 territories, or possessions of the United States, including the District of Columbia and the
266 Commonwealth of Puerto Rico.

267 (b)(1) Entry into the compact shall be made by resolution of ratification executed by the
268 authorized officials of the applying state, territory, or possession of the United States,
269 including the District of Columbia and the Commonwealth of Puerto Rico, and submitted
270 to the chairperson of the board of boating compact administrators.

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

273 (A) The authority by which the state, territory, or possession of the United States,
274 including the District of Columbia and the Commonwealth of Puerto Rico, is
275 empowered to become a member of this compact;

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

277 (C) That compact entry is with party states.

278 (3) The effective date of becoming a member of this compact shall be specified by the
279 applying state, territory, or possession of the United States, including the District of
280 Columbia and the Commonwealth of Puerto Rico, but shall not be less than 60 days after
281 notice has been given by the chairperson of the board of boating compact administrators
282 or by the secretary of such board to the party states that the resolution from the applying
283 state, territory, or possession of the United States, including the District of Columbia and
284 the Commonwealth of Puerto Rico, has been received.

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

289 ARTICLE X. 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 party states.

293 (b) Adoption of an amendment shall require endorsement by all party states and shall
294 become effective after this compact has been amended by law by a party state.

295 ARTICLE XI. 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
298 of this compact is declared to be contrary to the constitution of a party state or the United
299 States Constitution or the applicability of this compact to any government, agency,
300 individual, or circumstance is held invalid, the compact shall not be affected by it. If this
301 compact is held contrary to the constitution of a party state, the compact shall remain in full
302 force and effect as to the remaining party states and in full force and effect as to the party
303 state affected as to all severable matters.'

304 52-7-31.

305 (a) The commissioner of natural resources shall appoint an Interstate Boating Violator
306 Compact administrator for this state. Such administrator shall serve at the pleasure of the
307 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 state have been suspended
311 when such state is a party state, as such term is defined in Code Section 52-7-30.

312 (c) The Board of Natural Resources shall make and publish such rules and regulations,
313 including the creation of the compact manual, not inconsistent with law, as it deems
314 necessary to carry out the purposes of this article."

315 **SECTION 4.**

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