

House Bill 994

By: Representatives Powell of the 33rd, Rhodes of the 124th, Leverett of the 123rd, Cox of the 28th, Barrett of the 24th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 51 and 52 of the Official Code of Georgia Annotated, relating torts and
2 waters of the state, ports, and watercraft, respectively, so as to revise liability for the
3 negligent operation of a vessel; to require boat liveries to obtain and maintain certain
4 insurance; to provide for notice of insurance coverage; to provide for related matters; to
5 provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising
9 Code Section 51-1-22, relating to owner's liability for negligent operation of vessel and
10 express or implied consent prerequisite, as follows:

11 "51-1-22.

12 The owner of a vessel shall only be liable for any injury or damage occasioned by the
13 negligent operation of the vessel when he or she is the operator in immediate charge of the
14 vessel or is present in the vessel at the time when such injury or damage is occasioned by
15 the negligent operation of such vessel, whether the negligence consists of a violation of the
16 statutes of this state or of neglecting to observe such ordinary care in such operation as the

17 rules of common law require. ~~The owner shall not be liable, however, unless the vessel is~~
18 ~~being used with his or her express or implied consent. It shall be presumed that the vessel~~
19 ~~is being operated with the knowledge and consent of the owner if, at the time of the injury~~
20 ~~or damage, the vessel is under the control of his or her spouse, father, mother, brother,~~
21 ~~sister, son, daughter, or other immediate member of the owner's family.~~ Nothing contained
22 in this Code section shall be construed to relieve any other person from any liability which
23 he or she would otherwise have nor shall anything contained in this Code section be
24 construed to authorize or permit any recovery in excess of injury or damage actually
25 incurred. The owner of a boat livery, as such term is defined in Code Section 52-7-3, shall
26 not be liable as an owner of a vessel as provided in this Code section. The operator of a
27 vessel rented, leased, or chartered from a boat livery shall be liable for any injury or
28 damage occasioned by the negligent operation of such vessel."

29 SECTION 2.

30 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and
31 watercraft, is amended by revising Code Section 52-7-9, relating to boat liveries, as follows:
32 "52-7-9.

33 (a) The owner of a boat livery shall cause to be kept a record of the name and address of
34 the person or persons ~~hiring~~ renting, leasing, or chartering any vessel, the identification
35 number thereof, the departure date and time, and the expected time of return. The record
36 shall be preserved for at least six months.

37 (b) Neither the owner of a boat livery nor his or her agent or employees shall permit any
38 vessel to depart from his or her premises unless it shall have been provided either by the
39 owner or renter with the equipment required pursuant to Code Section 52-7-8 and any rules
40 and regulations made pursuant thereto.

41 (c) No ~~livery~~ boat livery vessel, except those having a length of 16 feet or less with a depth
42 of 16 inches or less, shall be operated by any person unless there is on board a copy of the

rental agreement authorizing such operation which shows the vessel number, the period of time the ~~boat~~ vessel is authorized for use by such operator, and any other pertinent information that the department may require.

(d) Neither the owner of a boat livery nor his or her agent or employees shall permit any vessel to depart from his or her premises unless such boat livery:

(1) Obtains and carries in full force and effect a policy from a licensed insurance carrier in this state which insures such boat livery against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of a boat livery vessel. Such policy shall provide coverage of at least \$200,000.00 per person and \$500,000.00 per event. The boat livery shall have proof of such insurance available for inspection at the location where boat livery vessels are being rented, leased, or chartered; and

(2) Provides a written disclaimer on or accompanying the rental agreement for a boat livery vessel that reads, in substance:

'Notice: The owner of this boat livery has an insurance policy which insures such boat livery and may not insure you. Insurance policies that you have may not cover damage or injuries caused directly or indirectly by your operation of a boat livery vessel, and you may be personally liable for such damage or injuries.'

(e) A boat livery's provision of the written disclaimer provided for in paragraph (2) of subsection (d) of this Code section shall not constitute the selling, soliciting, or negotiating of insurance."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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SECTION 4.

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