

House Bill 665

By: Representatives Lumsden of the 12th, Powell of the 32nd, Hitchens of the 161st, Welch of the 110th, and Trammell of the 132nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated,
2 relating to abandoned vessels, so as to revise notice requirements regarding abandoned
3 vessels; to eliminate duplication of notices to the Department of Natural Resources and the
4 Georgia Bureau of Investigation; to provide that such notice shall only be made to the
5 Department of Natural Resources; to provide for related matters; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to
10 abandoned vessels, is amended by revising Code Section 52-7-71, relating to removal and
11 storage of vessels and procedure, as follows:

12 "52-7-71.

13 (a) Any person who removes a vessel from public property or public water at the request
14 of a law enforcement officer or stores such vessel shall, if the owner of the vessel is
15 unknown, seek the identity of and address of the last known registered owner of such
16 vessel from the law enforcement officer requesting removal of such vessel or such officer's
17 agency within 72 hours of removal.

18 (b) Any person who removes a vessel from private property or private waters at the request
19 of the property owner or stores such vessel shall, if the owner of the vessel is unknown,
20 notify in writing a local law enforcement agency of the location of the vessel, the vessel
21 certificate of number, and the hull identification number, model, year, and make of the
22 vessel, if known or if readily ascertainable, within 72 hours of the removal of such vessel
23 and shall seek from the local law enforcement agency the identity and address of the last
24 known registered owner of such vessel and any information indicating that such vessel is
25 a stolen vessel.

26 (c) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code
 27 section is determined to be a stolen vessel, the local law enforcement officer or agency
 28 shall notify the ~~Georgia Crime Information Center~~ Department of Natural Resources and
 29 the owner, if known, of the location of such vessel within 72 hours after receiving notice
 30 that such vessel is a stolen vessel.

31 (d) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code
 32 section is determined not to be a stolen vessel or is not a vessel being repaired by a repair
 33 facility or is not being stored by an insurance company providing insurance to cover
 34 damages to the vessel, the person removing or storing such vessel shall, within seven
 35 calendar days of the day such vessel was removed, notify the owner, if known, by certified
 36 or registered mail or statutory overnight delivery of the location of such vessel, the fees
 37 connected with removal and storage of such vessel, and the fact that such vessel will be
 38 deemed abandoned under this article unless the owner redeems such vessel within 30 days
 39 of the date such vessel was removed.

40 (e) If the person identified as the owner fails to redeem such vessel as described in
 41 subsection (d) of this Code section, or if a vessel being repaired by a repair facility or being
 42 stored by an insurance company providing insurance to cover damages to the vessel
 43 becomes abandoned, the person removing or storing such vessel shall, within seven
 44 calendar days of the day such vessel became an abandoned vessel, give notice in writing,
 45 by sworn statement, to the Department of Natural Resources ~~and the Georgia Bureau of~~
 46 ~~Investigation~~, stating the vessel certificate of number; the hull identification number; the
 47 fact that such vessel is an abandoned vessel; the model, year, and make of the vessel, if
 48 known or if readily ascertainable; the date the vessel became an abandoned vessel; the
 49 date the vessel was removed; and the present location of such vessel; and requesting the
 50 name and address of all owners, lessors, lessees, security interest holders, and lienholders
 51 of such vessel. If a person removing or storing the vessel has knowledge of facts which
 52 reasonably indicate that the vessel is registered or titled in a certain other state, such person
 53 shall check the vessel records of that other state in the attempt to ascertain the identity of
 54 the owner of the vessel.

55 (e.1)(1)(A) Upon notice to the Department of Natural Resources as described in
 56 subsection (e) of this Code section, then the commissioner may revoke, suspend, deny,
 57 or refuse to renew any vessel certificate of number or commercial fishing boat license
 58 required by this title or Title 27 which is held by or has been applied for by the person,
 59 until all fees connected with removal and storage of the vessel have been paid and any
 60 lien acquired under Code Section 52-7-73 for such fees has been satisfied. The person
 61 shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal
 62 personally or by a letter sent by certified mail or statutory overnight delivery to the

63 name and address indicated on the application for the certificate of number or license,
64 or both. The proposed order for revocation, suspension, denial, or nonrenewal shall
65 become final 30 days after issuance if not appealed as provided in this paragraph.

66 (B) Any person whose vessel certificate of number or commercial fishing boat license
67 is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall
68 have the right to enter an appeal in the superior court of the county of his or her
69 residence or in the Superior Court of Fulton County. Such appeal shall name the
70 commissioner as defendant and must be filed within 30 days from the date the notice
71 of the proposed order was sent. The person filing the appeal shall neither be required
72 to post any bond nor to pay the costs in advance. If the person so desires, the appeal
73 may be heard by the judge at term or in chambers or by a jury at the first term. The
74 hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any
75 orders or acts of the department.

76 (2)(A) Upon notice to the Department of Natural Resources as described in
77 subsection (e) of this Code section and delivery of a copy of such notice to the state
78 revenue commissioner, then the state revenue commissioner may revoke, suspend,
79 deny, or refuse to renew any motor vehicle registration required by Title 40 which is
80 held by or has been applied for by the person, until all fees connected with removal and
81 storage of the vessel have been paid and any lien acquired under Code Section 52-7-73
82 for such fees has been satisfied. The person shall be notified of the proposed order for
83 revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified
84 mail or statutory overnight delivery to the name and address indicated on the
85 application for the registration. The proposed order for revocation, suspension, denial,
86 or nonrenewal shall become final 30 days after issuance if not appealed as provided in
87 this paragraph.

88 (B) Any person whose motor vehicle registration is proposed for revocation,
89 suspension, denial, or nonrenewal under this paragraph shall have the right to enter an
90 appeal in the superior court of the county of his or her residence or in the Superior
91 Court of Fulton County. Such appeal shall name the state revenue commissioner as
92 defendant and must be filed within 30 days from the date the notice of the proposed
93 order was sent. The person filing the appeal shall neither be required to post any bond
94 nor to pay the costs in advance. If the person so desires, the appeal may be heard by
95 the judge at term or in chambers or by a jury at the first term. The hearing on the
96 appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts
97 of the department.

98 (f) Upon ascertaining the owner of such vessel, the person removing or storing such vessel
99 shall, within five calendar days, by certified or registered mail or statutory overnight

100 delivery, notify the owner, lessors, lessees, security interest holders, and lienholders of the
 101 vessel of the location of such vessel and of the fact that such vessel is deemed abandoned
 102 and shall be disposed of if not redeemed.

103 (g) If the identity of the owner of such vessel cannot be ascertained, the person removing
 104 or storing such vessel shall place an advertisement in a newspaper of general circulation
 105 in the county where such vessel was obtained or, if there is no newspaper in such county,
 106 shall post such advertisement at the county courthouse in such place where other public
 107 notices are posted. Such advertisement shall run in the newspaper once a week for two
 108 consecutive weeks or shall remain posted at the courthouse for two consecutive weeks.
 109 The advertisement shall contain a complete description of the vessel, its certificate of
 110 number and hull identification number, the location from where such vessel was initially
 111 removed, the present location of such vessel, and the fact that such vessel is deemed
 112 abandoned and shall be disposed of if not redeemed.

113 ~~(h) Information forwarded to the Georgia Bureau of Investigation as required by this Code~~
 114 ~~section shall be placed by the bureau on the National Crime Information Center Network.~~

115 ~~(i)~~ Any person storing a vessel under the provisions of this Code section shall notify the
 116 Department of Natural Resources ~~and the Georgia Bureau of Investigation~~ if the vessel is
 117 recovered, is claimed by the owner, is determined to be stolen, or is for any reason no
 118 longer an abandoned vessel. Such notice shall be provided within seven calendar days of
 119 such event.

120 ~~(j)~~(i) If vessel information on the abandoned vessel is not in the files of the Department
 121 of Natural Resources, the department may require such other information or confirmation
 122 as it determines is necessary or appropriate to determine the identity of the vessel.

123 ~~(k)~~(j) Any person who does not provide the notice and information required by this Code
 124 section shall not be entitled to any storage fees.

125 ~~(l)~~(k) Any person who knowingly provides false or misleading information when
 126 providing any notice or information as required by this Code section shall be guilty of a
 127 misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor."

128 SECTION 2.

129 Said article is further amended by revising subparagraph (d)(1)(A) of Code Section 52-7-72,
 130 relating to authority of peace officer to cause removal of unattended vessels, notifications,
 131 and duties, as follows:

132 "(A) Notify the Department of Natural Resources ~~and the Georgia Crime Information~~
 133 ~~Center~~ of the description of the vessel, whether the vessel has been removed or not,
 134 and, if removed, the location to which such vessel has been removed; and"

SECTION 3.

135
136 Said article is further amended by revising Code Section 52-7-72.1, relating to penalty for
137 failing to remove unattended vessel, as follows:

138 "52-7-72.1.

139 (a)(1) If any vessel for which the Department of Natural Resources ~~and the Georgia~~
140 ~~Crime Information Center have~~ has received notice pursuant to subsection (d) of Code
141 Section 52-7-72 has not been removed and is determined not to be a stolen vessel, the
142 ~~commissioner~~ Commissioner of Natural Resources may proceed to take action against
143 the owner as provided by this Code section.

144 (2) If any vessel for which the Department of Natural Resources ~~and the Georgia Crime~~
145 ~~Information Center have~~ has received notice pursuant to subsection (d) of Code Section
146 52-7-72 has been removed, the provisions of this Code section shall not apply and the
147 provisions of Code Section 52-7-71 shall apply instead.

148 (b)(1)(A) Upon notice to the Department of Natural Resources as described in
149 subsection (d) of Code Section 52-7-72, then the ~~commissioner~~ Commissioner of
150 Natural Resources may revoke, suspend, deny, or refuse to renew any vessel certificate
151 of number or commercial fishing boat license required by this title or Title 27 which is
152 held by or has been applied for by a person who owns the vessel, until the owner
153 restores and resumes operation of the vessel or removes it from public waters or public
154 property. The person shall be notified of the proposed order for revocation, suspension,
155 denial, or nonrenewal personally or by a letter sent by certified mail or statutory
156 overnight delivery to the name and address indicated on the application for the
157 certificate of number or license, or both. The proposed order for revocation,
158 suspension, denial, or nonrenewal shall become final 30 days after issuance if not
159 appealed as provided in this paragraph.

160 (B) Any person whose vessel certificate of number or commercial fishing boat license
161 is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall
162 have the right to enter an appeal in the superior court of the county of his or her
163 residence or in the Superior Court of Fulton County. Such appeal shall name the
164 commissioner as defendant and must be filed within 30 days from the date the notice
165 of the proposed order was sent. The person filing the appeal shall neither be required
166 to post any bond nor to pay the costs in advance. If the person so desires, the appeal
167 may be heard by the judge at term or in chambers or by a jury at the first term. The
168 hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any
169 orders or acts of the department.

170 (2)(A) Upon notice to the Department of Natural Resources as described in
171 subsection (d) of Code Section 52-7-72 and delivery of a copy of such notice to the

172 state revenue commissioner, then the state revenue commissioner may revoke, suspend,
173 deny, or refuse to renew any motor vehicle registration required by Title 40 which is
174 held by or has been applied for by a person who owns the vessel, until the owner
175 restores and resumes operation of the vessel or removes it from public waters or public
176 property. The person shall be notified of the proposed order for revocation, suspension,
177 denial, or nonrenewal personally or by a letter sent by certified mail or statutory
178 overnight delivery to the name and address indicated on the application for the
179 registration. The proposed order for revocation, suspension, denial, or nonrenewal shall
180 become final 30 days after issuance if not appealed as provided in this paragraph.

181 (B) Any person whose motor vehicle registration is proposed for revocation,
182 suspension, denial, or nonrenewal under this paragraph shall have the right to enter an
183 appeal in the superior court of the county of his or her residence or in the Superior
184 Court of Fulton County. Such appeal shall name the state revenue commissioner as
185 defendant and must be filed within 30 days from the date the notice of the proposed
186 order was sent. The person filing the appeal shall neither be required to post any bond
187 nor to pay the costs in advance. If the person so desires, the appeal may be heard by
188 the judge at term or in chambers or by a jury at the first term. The hearing on the
189 appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts
190 of the department."

191 **SECTION 4.**

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