

House Bill 957

By: Representatives Petrea of the 166th, Stephens of the 164th, Sainz of the 180th, Townsend of the 179th, DeLoach of the 167th, and others

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 penalties for failing to remove an abandoned
3 vessel; to provide for notice; to provide for appeal and hearing; to provide for related matters;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 3 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to
8 abandoned vessels, is amended by revising Code Section 52-7-72, relating to authority of
9 peace officer to cause removal of unattended vessels, notifications, and duties, as follows:
10 "52-7-72.

11 (a) Any peace officer who finds a vessel which has been left unattended in or upon any
12 public waters or other public property for a period of at least five days, if such peace officer
13 reasonably believes that the person who left such vessel unattended does not intend to
14 return and remove such vessel, shall notify the owner of the vessel and the Department of
15 Natural Resources of such finding in accordance with subsection (d) of this Code section
16 and may cause such vessel to be removed to a garage or other place of safety.

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17 (b) Any peace officer who finds a vessel which has been left unattended in or upon any
18 public waters or other public property, when such vessel poses a threat to public health or
19 safety, shall notify the owner of the vessel and the Department of Natural Resources of
20 such finding in accordance with subsection (d) of this Code section and may immediately
21 cause such vessel to be removed to a garage or other place of safety.

22 (c) Any peace officer who, under the provisions of this Code section, causes any vessel to
23 be removed to a garage or other place of safety shall be liable for gross negligence only.

24 (d)(1) Any peace officer who finds a vessel under such conditions as described in
25 subsection (a) or (b) of this Code section shall within 72 hours from the time of such
26 finding:

27 (A) Notify the Department of Natural Resources of the description of the vessel,
28 whether the vessel has been removed or not, and, if removed, the location to which such
29 vessel has been removed; ~~and~~

30 (B) Perform a check against information in ~~If available on~~ the Georgia Crime
31 Information Center Network, ~~determine the name and address of the last known~~
32 ~~registered owner of such vessel~~ criminal justice information system to determine
33 whether such vessel has been reported as stolen; and

34 (C) Determine, based on information from the Department of Natural Resources, the
35 name and address of the last known registered owner of such vessel and if such vessel
36 has not been removed, notify such owner by certified mail or statutory overnight
37 delivery that such vessel is required to be removed within 30 calendar days from such
38 notification or such owner shall be liable for a civil monetary penalty pursuant to Code
39 Section 52-7-72.1.

40 If vessel information is not in the files of the Department of Natural Resources, the
41 department may require such other information or confirmation as it determines is
42 necessary or appropriate to determine the identity of the vessel.

43 (2) If any such vessel is determined to be a stolen vessel, the ~~local law enforcement~~
 44 peace officer or his or her agency shall notify the Georgia Crime Information Center and
 45 the owner, if known, of the location of such vessel within 72 hours after receiving notice
 46 that such vessel is a stolen vessel.

47 (3) If the vessel is removed ~~and the name and address of the last known registered owner~~
 48 ~~of the vessel is obtained from the Georgia Crime Information Center~~, the peace officer
 49 who causes the vessel to be removed shall, within three calendar days of removal, make
 50 available to the person removing such vessel the name and address of the last known
 51 registered owner of such vessel. If such information is not available, the peace officer
 52 shall, within three calendar days of removal, notify the person removing or storing such
 53 vessel of such fact."

54

SECTION 2.

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

57 "52-7-72.1.

58 (a)(1) If any vessel for which ~~the Department of Natural Resources and the Georgia~~
 59 ~~Crime Information Center have received notice~~ has been issued pursuant to subsection (d)
 60 of Code Section 52-7-72 has not been removed and is determined not to be a stolen
 61 vessel, the ~~commissioner may proceed to take action against the owner as provided by~~
 62 provisions of this Code section shall apply.

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

67 (b) Any person receiving notice pursuant to subsection (d) of Code Section 52-7-72 who
 68 fails to remove an abandoned vessel which has been determined not to be a stolen vessel

69 within 30 calendar days of receipt of such notice shall be liable for the costs incurred for
70 the removal, storage, and disposal of the vessel and may be punished with a civil monetary
71 penalty of up to \$30,000.00. Such person shall be entitled to a hearing upon request which
72 shall be held within 30 days of receipt of such request and shall follow the procedures
73 required by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Appeal
74 from such hearing shall be in accordance with such chapter.

75 (b)(c)(1)(A) Upon notice to the Department of Natural Resources as described in
76 subsection (d) of Code Section 52-7-72, ~~then~~ the commissioner may revoke, suspend,
77 deny, or refuse to renew any vessel certificate of number or commercial fishing boat
78 license required by this title or Title 27 which is held by or has been applied for by a
79 person who owns the vessel, until the owner restores and resumes operation of the
80 vessel or removes it from public waters or public property. The person shall be notified
81 of the proposed order for revocation, suspension, denial, or nonrenewal personally or
82 by a letter sent by certified mail or statutory overnight delivery to the name and address
83 indicated on the application for the certificate of number or license, or both. The
84 proposed order for revocation, suspension, denial, or nonrenewal shall become final
85 30 days after issuance if not appealed as provided in this paragraph.

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

96 (2)(A) Upon notice to the Department of Natural Resources as described in
97 subsection (d) of Code Section 52-7-72 and delivery of a copy of such notice to the
98 state revenue commissioner, ~~then~~ the state revenue commissioner may revoke, suspend,
99 deny, or refuse to renew any motor vehicle registration required by Title 40 which is
100 held by or has been applied for by a person who owns the vessel, until the owner
101 restores and resumes operation of the vessel or removes it from public waters or public
102 property. The person shall be notified of the proposed order for revocation, suspension,
103 denial, or nonrenewal personally or by a letter sent by certified mail or statutory
104 overnight delivery to the name and address indicated on the application for the
105 registration. The proposed order for revocation, suspension, denial, or nonrenewal shall
106 become final 30 days after issuance if not appealed as provided in this paragraph.

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

117 **SECTION 3.**

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