

Senate Bill 136

By: Senators Miller of the 49th, Unterman of the 45th, Murphy of the 27th, Sims of the 12th, Tolleson of the 20th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 27 and Chapter 7 of Title 52 of the Official Code of Georgia Annotated,
 2 relating to game and fish and to registration, operation, and sale of watercraft, respectively,
 3 so as to provide greater public protection for hunting and boating; to harmonize provisions
 4 relating to hunting, boating, and driving under the influence of alcohol, toxic vapors, or
 5 drugs; to provide for short titles; to change provisions relating to rules and regulations used
 6 to establish criminal violations for hunting; to change provisions relating to hunting under
 7 the influence; to change provisions relating to required equipment for children on vessels and
 8 lighting; to change provisions relating to operating vessels and personal watercraft; to change
 9 provisions relating to operation of watercraft and operating watercraft while under the
 10 influence of alcohol, toxic vapors, or drugs; to change provisions relating to ordering drug
 11 or alcohol testing; to change provisions relating to suspension of an operator's privilege to
 12 operate a vessel in this state; to change provisions relating to boating education courses in
 13 this state; to change provisions relating to rules and regulations used to establish criminal
 14 violations for registration, operation, and sale of watercraft and displaying watercraft
 15 information; to provide for related matters; to provide for an effective date and applicability;
 16 to repeal conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Sections 5, 6, and 11 of this Act shall be known and may be cited as the "Kile Glover Boat
 20 Education Law," and Sections 8, 9, and 10 of this Act shall be known and may be cited as
 21 the "Jake and Griffin Prince BUI Law."

22 **SECTION 2.**

23 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by
 24 revising Code Section 27-1-39, relating to rules and regulations used to establish criminal
 25 violations, as follows:

26 "27-1-39.

27 Notwithstanding any other law to the contrary, for purposes of establishing criminal
 28 violations of the rules and regulations promulgated by the Board of Natural Resources as
 29 provided in this title, the term 'rules and regulations' ~~shall mean~~ means those rules and
 30 regulations of the Board of Natural Resources in force and effect on ~~January 1, 2012~~
 31 February 5, 2013."

32 **SECTION 3.**

33 Said title is further amended in Code Section 27-3-7, relating to hunting under the influence
 34 of alcohol or drugs, by revising paragraph (4) of subsection (b), subsection (f), and paragraph
 35 (2) of subsection (g) and by adding three new subsections to read as follows:

36 "(4) The person's alcohol concentration is ~~0.10~~ 0.08 grams or more at any time within
 37 three hours after such hunting from alcohol consumed before such hunting ended; or"

38 "(f) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged
 39 to have been committed by any person hunting in violation of subsection (b) of this Code
 40 section, the amount of alcohol in the person's blood at the time alleged, as shown by
 41 chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give
 42 rise to the following presumptions:

43 (1) If there was at that time a blood alcohol concentration of 0.05 grams or less, it shall
 44 be presumed that the person was not under the influence of alcohol, as prohibited by
 45 paragraphs (1), (2), and (3) of subsection (b) of this Code section;

46 (2) If there was at that time a blood alcohol concentration in excess of 0.05 grams but
 47 less than 0.08 grams, such fact shall not give rise to any presumption that the person was
 48 or was not under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of
 49 subsection (b) of this Code section, but such fact may be considered with other competent
 50 evidence in determining whether the person was under the influence of alcohol, as
 51 prohibited by paragraphs (1), (2), and (3) of subsection (b) of this Code section; and

52 ~~(3) If there was at that time a blood alcohol concentration of 0.08 grams or more, it shall~~
 53 ~~be presumed that the person was under the influence of alcohol, as prohibited by~~
 54 ~~paragraphs (1), (2), and (3) of subsection (b) of this Code section; and~~

55 ~~(4)~~(3) If there was at that time or within three hours after hunting, from alcohol
 56 consumed before such hunting ended, a blood alcohol concentration of ~~0.10~~ 0.08 or more
 57 grams, the person shall be in violation of paragraph (4) of subsection (b) of this Code
 58 section."

59 "(2) At the time a chemical test or tests are requested, the arresting officer shall read to
 60 the person the following implied consent warning:

61 'Georgia law requires you to submit to state administered chemical tests of your blood,
62 breath, urine, or other bodily substances for the purpose of determining if you are under
63 the influence of alcohol or drugs. If you refuse this testing ~~and you are convicted of~~
64 ~~hunting while under the influence of alcohol or drugs~~, your privilege to hunt in this
65 state will be suspended for a period of two years. Your refusal to submit to the required
66 testing may be offered into evidence against you at trial. If you ~~consent to the test, the~~
67 ~~results may be offered into evidence against you~~ submit to testing and the results
68 indicate an alcohol concentration of 0.08 grams or more or the presence of any illegal
69 drug, your privilege to hunt in this state may be suspended for a minimum period of one
70 year. After first submitting to the required state tests, you are entitled to additional
71 chemical tests of your blood, breath, urine, or other bodily substances at your own
72 expense and from qualified personnel of your own choosing. Will you submit to the
73 state administered chemical tests of your (designate which tests) under the implied
74 consent law?"

75 "(j) Nothing in this Code section shall be deemed to preclude the acquisition or admission
76 of evidence of a violation of this Code section if the evidence was obtained by voluntary
77 consent or a search warrant as authorized by the Constitution or the laws of this state or the
78 United States.

79 (k) Upon the request of a law enforcement officer, if a person consents to submit to a
80 chemical test designated by such officer as provided in subsection (g) of this Code section,
81 and the results of such test indicate an alcohol concentration of 0.08 grams or more, upon
82 a conviction of a violation of paragraph (4) of subsection (b) of this Code section, in
83 addition to any other punishment imposed, such person's privileges to hunt in this state
84 shall be suspended by operation of law for a period of one year. Even if such person did
85 not possess a valid hunting license at the time of the violation, such person's hunting
86 privileges shall be suspended for one year.

87 (l) Following the period of suspension set forth in subsection (i) or (k) of this Code
88 section, such person may apply to the department for reinstatement of his or her hunting
89 privileges. Any suspension pursuant to this Code section shall remain in effect until such
90 person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction
91 Program certified by the Department of Driver Services and pays a restoration fee of
92 \$200.00, unless such conviction was a recidivist conviction, in which case the restoration
93 fee shall be \$500.00."

94 **SECTION 4.**

95 Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to registration,
 96 operation, and sale of watercraft, is amended by revising paragraph (3) of subsection (d) of
 97 Code Section 52-7-8, relating to classification of vessels and required equipment, as follows:

98 "(3) No person shall operate a moving vessel upon the waters of this state with a child
 99 under the age of ten 13 years on board such vessel unless ~~the~~ such child is wearing an
 100 appropriately sized personal flotation device, as required by this subsection to be on
 101 board the vessel. This requirement shall not apply when the child is within a fully
 102 enclosed roofed cabin or other fully enclosed roofed compartment or structure on the
 103 vessel."

104 **SECTION 5.**

105 Said chapter is further amended by revising subsections (a), (c), (l), and (m) of Code Section
 106 52-7-8.2, relating to restrictions on operation of personal watercraft, as follows:

107 "(a) As used in this Code section, the term:

108 (1) 'Accompanied by' means in the physical presence within the vessel of a person who
 109 is not under the influence of alcohol, toxic vapors, or drugs to a degree which would
 110 constitute a violation of Code Section 52-7-12 were such person operating the vessel.

111 ~~(2) 'Class A vessel' means a boat less than 16 feet in length.~~

112 ~~(3)~~(2) 'Personal watercraft' means a Class A vessel which:

113 (A) Has an outboard motor or which has an inboard motor which uses an internal
 114 combustion engine powering a water jet pump as its primary source of motive
 115 propulsion;

116 (B) Is designed with the concept that the operator and passenger ride on the outside
 117 surfaces of ~~the~~ such vessel as opposed to riding inside ~~the~~ such vessel; and

118 (C) Has the probability that the operator and passenger may, in the normal course of
 119 use, fall overboard.

120 Such term includes, without limitation, any vessel where the operator and passenger ride
 121 on the outside surfaces of the vessel, even if the primary source of motive propulsion is
 122 a propeller, and any ~~vessels~~ vessel commonly known as a 'jet ski.'

123 ~~(4) 'Under the direct supervision' means within sight of and within 400 yards of a person
 124 who is not under the influence of alcohol or drugs to a degree which would constitute a
 125 violation of Code Section 52-7-12 were such person operating the vessel and who is
 126 aware of his or her supervisory responsibility."~~

127 "(c) No person shall rent, lease, or let for hire a personal watercraft to any person under the
 128 age of 16 years Reserved."

129 ~~"(l) On and after June 1, 1995, no~~ No person under the age of 16 years shall operate a
 130 personal watercraft on the waters of this state; provided, however, that a person ~~age 12~~
 131 ~~through 15 years~~ of age may operate a personal watercraft if he or she is accompanied by
 132 an adult ~~age 18 years of age or over older~~ or he or she has successfully completed a
 133 ~~personal watercraft safety program~~ boating education course approved by the department
 134 ~~or is under direct supervision by an adult age 18 or over.~~ The department may, ~~but shall~~
 135 ~~not be required to,~~ conduct or provide ~~personal watercraft safety~~ boating education courses
 136 to the public.

137 (m) ~~On and after July 1, 1995, it~~ It shall be unlawful for any person to cause or knowingly
 138 permit such person's child or ward who is less than 12 years of age or the child or ward of
 139 another over whom such person has a permanent or temporary responsibility of supervision
 140 if such child or ward is less than 12 years of age to operate a personal watercraft."

141 SECTION 6.

142 Said chapter is further amended by revising Code Section 52-7-8.3, relating to operation of
 143 watercraft, as follows:

144 "52-7-8.3.

145 (a) A person ~~age 16 years of age or over older~~ may operate any vessel or personal
 146 watercraft on any of the waters of this state if such person has met the applicable
 147 requirements of Code Section 52-7-22, and such person ~~shall have~~ has in such vessel
 148 proper identification.

149 (b) A person ~~age 14 or 12 through 15 years of age~~ may operate:

150 ~~(1) A~~ a personal watercraft or ~~nonmotorized~~ Class A vessel on any of the waters of this
 151 state in compliance with the provisions of this article; ~~and if such person:~~

152 ~~(2) Any other vessel if such person:~~

153 ~~(A)(1)~~ (1) Is accompanied by an adult ~~age 18 or over~~ 18 years of age or older who is
 154 authorized to operate such vessel under the provisions of subsection (a) of this Code
 155 section; or

156 ~~(B)(2)~~ (2) Has completed a safe boating education course approved by the department; ~~or~~

157 ~~(C) Is under direct supervision by an adult age 18 or over.~~

158 (c) ~~A person age 12 or 13 may operate any Class A vessel utilizing mechanical means of~~
 159 ~~propulsion not exceeding 30 horsepower, under the conditions set forth in subparagraphs~~
 160 ~~(b)(2)(A) through (b)(2)(C) of this Code section. Such person may operate a personal~~
 161 ~~watercraft in compliance with Code Section 52-7-8.2, and such person may operate~~
 162 ~~nonmotorized Class A vessels without restriction~~ No person between 12 through 15 years
 163 of age may operate a Class 1, Class 2, or Class 3 vessel.

164 (d) No person under the age of 12 years shall operate any Class 1, 2, or 3 vessel or any
 165 personal watercraft on any of the waters of this state, and no such person shall operate any
 166 Class A vessel utilizing mechanical means of propulsion exceeding 30 horsepower. Such
 167 person may operate a Class A vessel, other than a personal watercraft, utilizing mechanical
 168 means of propulsion not exceeding 30 horsepower only where such person is accompanied
 169 by an adult ~~age 18 years of age or over~~ older who is authorized to operate such vessel under
 170 the provisions of subsection (a) of this Code section.

171 (e) No person having ownership or control of a vessel shall permit another person to
 172 operate such vessel in violation of this Code section.

173 (f) No person shall rent, lease, or let for hire any vessel ten horsepower or more to any
 174 person under 16 years of age. On and after July 1, 2014, a person 16 years of age or older
 175 may rent or lease any vessel ten horsepower or more if such person has completed a
 176 boating education course approved by the department. This subsection shall not apply to
 177 any person licensed by the United States Coast Guard as a master of a vessel or a
 178 nonresident who has in his or her possession proof that he or she has completed a National
 179 Association of State Boating Law Administrators approved boater education course or
 180 equivalency examination from another state.

181 ~~(e)~~(g) As used in this Code section, the term:

182 (1) 'Accompanied by' means in the physical presence within the vessel of a person who
 183 is not under the influence of alcohol, toxic vapors, or drugs to a degree which would
 184 constitute a violation of Code Section 52-7-12 were such person operating the vessel.

185 (2) 'Personal watercraft' shall have the same meaning as set forth in Code Section
 186 52-7-8.2.

187 (3) 'Proper identification' shall have the same meaning as in subsection (d) of Code
 188 Section 3-3-23, relating to furnishing of alcoholic beverages.

189 ~~(3) 'Under the direct supervision' means within sight of and within 400 yards of a person~~
 190 ~~who is not under the influence of alcohol or drugs to a degree which would constitute a~~
 191 ~~violation of Code Section 52-7-12 were such person operating the vessel and who is~~
 192 ~~aware of his or her supervisory responsibility.~~

193 ~~(f) No person having ownership or control of a vessel shall permit another person to~~
 194 ~~operate such vessel in violation of this Code section."~~

195 SECTION 7.

196 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section
 197 52-7-11, relating to lights, as follows:

198 "(2) All motorized Class A and Class 1 vessels being operated during hours of darkness
 199 or low visibility shall display a 32 point white stern light visible for a distance of two

200 miles, plus a 20 point combination red and green light on the bow; or ten-point
 201 combination red and green side lights properly screened and visible for a distance of one
 202 mile and displayed lower than the white stern light."

203

SECTION 8.

204 Said chapter is further amended by revising Code Section 52-7-12, relating to operation of
 205 watercraft while under the influence of alcohol or drugs, as follows:

206 "52-7-12.

207 (a) No person shall operate, navigate, steer, or drive any moving vessel, or be in actual
 208 physical control of any moving vessel, nor shall any person manipulate any moving water
 209 skis, moving aquaplane, moving surfboard, or similar moving device while:

210 (1) Under the influence of alcohol to the extent that it is less safe for the person to
 211 operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving
 212 vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving
 213 device;

214 (2) Under the influence of any drug to the extent that it is less safe for the person to
 215 operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving
 216 vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving
 217 device;

218 (3) Under the intentional influence of any glue, aerosol, or other toxic vapor to the extent
 219 that it is less safe for the person to operate, navigate, steer, drive, manipulate, or be in
 220 actual physical control of a moving vessel, moving water skis, moving aquaplane,
 221 moving surfboard, or similar moving device;

222 ~~(3)~~(4) Under the combined influence of ~~alcohol and any drug~~ any two or more of the
 223 substances specified in paragraphs (1) through (3) of this subsection to the extent that it
 224 is less safe for the person to operate, navigate, steer, drive, manipulate, or be in actual
 225 physical control of a moving vessel, moving water skis, moving aquaplane, moving
 226 surfboard, or similar moving device;

227 ~~(4)~~(5) The person's alcohol concentration is ~~0.10~~ 0.08 grams or more at any time within
 228 three hours after such operating, navigating, steering, driving, manipulating, or being in
 229 actual physical control of a moving vessel, moving water skis, moving aquaplane,
 230 moving surfboard, or similar moving device from alcohol consumed before such
 231 operating, navigating, steering, driving, manipulating, or being in actual physical control
 232 ended; or

233 ~~(5)~~(6) Subject to the provisions of subsection (b) of this Code section, there is any
 234 amount of marijuana or a controlled substance, as defined in Code Section 16-13-21,
 235 present in the person's blood or urine, or both, including the metabolites and derivatives

236 of each or both without regard to whether or not any alcohol is present in the person's
237 breath or blood.

238 (b) The fact that any person charged with violating this Code section is or has been legally
239 entitled to use a drug shall not constitute a defense against any charge of violating this
240 Code section; provided, however, that such person shall not be in violation of this Code
241 section unless such person is rendered incapable of operating, navigating, steering, driving,
242 manipulating, or being in actual physical control of a moving vessel, moving water skis,
243 moving aquaplane, moving surfboard, or similar moving device safely as a result of using
244 a drug other than alcohol which such person is legally entitled to use.

245 (c) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged
246 to have been committed by any person while operating, navigating, steering, driving,
247 manipulating, or being in actual physical control of a moving vessel, moving water skis,
248 moving aquaplane, moving surfboard, or similar moving device while under the influence
249 of alcohol or drugs, evidence of the amount of alcohol or drug in a person's blood, urine,
250 breath, or other bodily substance at the alleged time, as determined by a chemical analysis
251 of the person's blood, urine, breath, or other bodily ~~substances~~ substance, shall be
252 admissible. Where such chemical test is made, the following provisions shall apply:

253 (1) Chemical analysis of the person's blood, urine, breath, or other bodily substance, to
254 be considered valid under this Code section, shall have been performed according to
255 methods approved by the Division of Forensic Sciences of the Georgia Bureau of
256 Investigation and by an individual possessing a valid permit issued by the Division of
257 Forensic Sciences for this purpose. The Division of Forensic Sciences of the Georgia
258 Bureau of Investigation is authorized to approve satisfactory techniques or methods to
259 ascertain the qualifications and competence of individuals to conduct analyses and to
260 issue permits, which shall be subject to termination or revocation at the discretion of the
261 Division of Forensic Sciences;

262 (2) When a person ~~shall undergo~~ undergoes a chemical test at the request of a law
263 enforcement officer under subsection (e) of this Code section, only a physician, registered
264 nurse, laboratory technician, emergency medical technician, or other qualified person
265 may withdraw blood for the purpose of determining the alcoholic or drug content therein,
266 provided that this limitation shall not apply to the taking of breath or urine specimens.
267 No physician, registered nurse, laboratory technician, emergency medical technician, or
268 other qualified person or employer thereof shall incur any civil or criminal liability as a
269 result of the medically proper obtaining of such blood specimens when requested in
270 writing by a law enforcement officer;

271 (3) The person tested may have a physician or a qualified technician, chemist, registered
272 nurse, or other qualified person of his or her own choosing administer a chemical test or

273 tests in addition to any administered at the direction of a law enforcement officer. The
 274 justifiable failure or inability to obtain an additional test shall not preclude the admission
 275 of evidence relating to the test or tests taken at the direction of a law enforcement officer;
 276 and

277 (4) Upon ~~the~~ request of the person who ~~shall submit~~ submits to a chemical test or tests
 278 at the request of a law enforcement officer, full information concerning ~~the~~ such test or
 279 tests shall be made available to such person or such person's attorney. The arresting
 280 officer at the time of arrest shall advise the person arrested of his or her rights to a
 281 chemical test or tests according to this Code section.

282 (d) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged
 283 to have been committed by any person while operating, navigating, steering, driving,
 284 manipulating, or being in actual physical control of a moving vessel, moving water skis,
 285 moving aquaplane, moving surfboard, or similar moving device while under the influence
 286 of alcohol, the amount of alcohol in the person's blood at the time alleged, as shown by
 287 chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give
 288 rise to the following presumptions:

289 (1) If there was at that time an alcohol concentration of 0.05 grams or less, it shall be
 290 presumed that the person was not under the influence of alcohol, as prohibited by
 291 paragraphs (1), ~~(2), and (3)~~ (4), and (5) of subsection (a) of this Code section;

292 (2) If there was at that time an alcohol concentration in excess of 0.05 grams but less
 293 than 0.08 grams, such fact shall not give rise to any presumption that the person was or
 294 was not under the influence of alcohol, as prohibited by paragraphs (1), ~~(2), and (3)~~ (4),
 295 and (5) of subsection (a) of this Code section, but such fact may be considered with other
 296 competent evidence in determining whether the person was under the influence of
 297 alcohol, as prohibited by paragraphs (1), ~~(2), and (3)~~ (4), and (5) of subsection (a) of this
 298 Code section; and

299 ~~(3) If there was at that time an alcohol concentration of 0.08 grams or more, it shall be~~
 300 ~~presumed that the person was under the influence of alcohol, as prohibited by paragraphs~~
 301 ~~(1), (2), and (3) of subsection (a) of this Code section; and~~

302 ~~(4)~~(3) If there was at that time or within three hours after operating, navigating, steering,
 303 driving, manipulating, or being in actual physical control of a moving vessel, moving
 304 water skis, moving aquaplane, moving surfboard, or similar moving device from alcohol
 305 consumed before such operating, navigating, steering, driving, manipulating, or being in
 306 actual physical control ended an alcohol concentration of ~~0.10~~ 0.08 or more grams, the
 307 person shall be in violation of paragraph ~~(4)~~ (5) of subsection (a) of this Code section.

308 (e) The State of Georgia considers that persons who are under the influence of alcohol,
 309 toxic vapors, or drugs while operating a vessel on the waters of this state constitute a direct

310 and immediate threat to the welfare and safety of the general public. Therefore, any person
311 who operates a vessel upon the waters of this state shall be deemed to have given consent,
312 subject to ~~subsections (c) and (d)~~ subsection (c) of this Code section, to a chemical test or
313 tests of his or her blood, breath, or urine or other bodily ~~substances~~ substance for the
314 purpose of determining the alcoholic or drug content of his or her blood if arrested for any
315 offense arising out of acts alleged to have been committed while the person was operating,
316 navigating, steering, driving, manipulating, or in actual physical control of a moving vessel,
317 moving water skis, moving aquaplane, moving surfboard, or similar moving device while
318 under the influence of alcohol, toxic vapors, or any drug. The test or tests shall be
319 administered at the request of a law enforcement officer having reasonable grounds to
320 believe that the person has been operating or was in actual physical control of a vessel upon
321 the waters of this state while under the influence of alcohol, toxic vapors, or any drug.
322 Subject to ~~subsections (c) and (d)~~ subsection (c) of this Code section, the requesting law
323 enforcement officer shall designate which of the aforesaid tests shall be administered.

324 (f) Any person who is dead, unconscious, or otherwise in a condition rendering him or her
325 incapable of refusal shall be deemed not to have withdrawn the consent provided by
326 subsection (e) of this Code section, and the test or tests may be administered subject to
327 ~~subsections (c) and (d)~~ subsection (c) of this Code section.

328 (g) If a person refuses, upon the request of a law enforcement officer, to submit to a
329 chemical test designated by the law enforcement officer as provided in subsection (e) of
330 this Code section, no test shall be given; however, such refusal shall be admissible in
331 evidence.

332 (h) In the event of a boating accident involving a fatality, the investigating coroner or
333 medical examiner having jurisdiction shall direct that a chemical blood test to determine
334 blood alcohol concentration (BAC) or the presence of drugs be performed on the dead
335 person or persons and that the results of such test be properly recorded in his or her report.

336 (i) It shall be unlawful for the owner of any vessel knowingly to allow or authorize any
337 person to operate such vessel or to manipulate any water skis, aquaplane, surfboard, or
338 similar device being towed by such vessel when the owner knows or has reasonable
339 grounds to believe that said person is intoxicated or under the influence of alcohol, toxic
340 vapors, or drugs in violation of this Code section.

341 (j) In any civil or criminal action or proceeding arising out of acts alleged to have been
342 committed by any person in violation of subsection (k) of this Code section, if there was
343 at that time or within three hours after operating, navigating, steering, driving, or being in
344 actual physical control of a moving vessel or personal watercraft from alcohol consumed
345 before such operating, navigating, steering, driving, or being in actual physical control

346 ended an alcohol concentration of 0.02 grams or more in the person's blood, breath, or
 347 urine, the person shall be in violation of subsection (k) of this Code section.

348 (k)(1) A person under the age of 21 years shall not operate, navigate, steer, drive, or be
 349 in actual physical control of any moving vessel, moving water skis, moving aquaplane,
 350 moving surfboard or similar moving device, or personal watercraft while ~~the~~ such
 351 person's alcohol concentration is 0.02 grams or more at any time within three hours after
 352 such operating, navigating, steering, driving, or being in actual physical control from
 353 alcohol consumed before such operating, navigating, steering, driving, or being in actual
 354 physical control ended.

355 (2) No plea of nolo contendere shall be accepted for any person under the age of 21 years
 356 charged with a violation of this Code section.

357 (l) A person who violates this Code section while transporting in a moving vessel or
 358 personal watercraft or towing on water skis, an aquaplane, a surfboard, or similar device
 359 a child under the age of 14 years ~~is~~ shall be guilty of the separate offense of endangering
 360 a child by operating a moving vessel or personal watercraft under the influence of alcohol,
 361 toxic vapors, or drugs. The offense of endangering a child by operating a moving vessel
 362 or personal watercraft under the influence of alcohol, toxic vapors, or drugs shall not be
 363 merged with the offense of operating a vessel under the influence of alcohol, toxic vapors,
 364 or drugs for the purposes of prosecution and sentencing. An offender who is convicted of
 365 a violation of this subsection shall be punished in accordance with the provisions of
 366 subsection (d) of Code Section 16-12-1, relating to the offense of contributing to the
 367 delinquency, unruliness, or deprivation of a child.

368 (m) Every person convicted of violating this Code section shall, upon a first or second
 369 conviction thereof, be guilty of a misdemeanor; upon a third conviction thereof, be guilty
 370 of a high and aggravated misdemeanor; and upon a fourth or subsequent conviction thereof,
 371 be guilty of a felony except as otherwise provided in paragraph (4) of this subsection and
 372 shall be punished as follows:

373 (1) For the first conviction with no conviction of and no plea of nolo contendere accepted
 374 to a charge of violating this Code section within the previous ten years, as measured from
 375 the dates of previous arrests for which convictions were obtained or pleas of nolo
 376 contendere were accepted to the date of the current arrest for which a conviction is
 377 obtained or a plea of nolo contendere is accepted:

378 (A) A fine of not less than \$300.00 and not more than \$1,000.00, which fine shall not,
 379 except as provided in subsection (n) of this Code section, be subject to suspension, stay,
 380 or probation;

381 (B) A period of imprisonment of not fewer than ten days nor more than 12 months,
 382 which period of imprisonment may, at the sole discretion of the judge, be suspended,

383 stayed, or probated, except that if the offender's alcohol concentration at the time of the
384 offense was 0.08 grams or more, the judge may suspend, stay, or probate all but 24
385 hours of any term of imprisonment imposed under this subparagraph;

386 (C) Not fewer than 40 hours of community service, except that for a conviction for
387 violation of subsection (k) of this Code section where the person's alcohol concentration
388 at the time of the offense was less than 0.08 grams, the period of community service
389 shall be not fewer than 20 hours;

390 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program as defined in
391 Code Section 40-5-1. The sponsor of any such program shall provide written notice of
392 the Department of Drivers Service's approval of the program to the person upon
393 enrollment in the program;

394 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as
395 a part of such evaluation, completion of a substance abuse treatment program as defined
396 in Code Section 40-5-1; provided, however, that in the court's discretion, such
397 evaluation may be waived; and

398 (F) If the person is sentenced to a period of imprisonment for fewer than 12 months,
399 a period of probation of 12 months less any days during which the person is actually
400 incarcerated;

401 (2) For the second conviction within a ten-year period of time, as measured from the
402 dates of previous arrests for which convictions were obtained or pleas of nolo contendere
403 were accepted to the date of the current arrest for which a conviction is obtained or a plea
404 of nolo contendere is accepted:

405 (A) A fine of not less than \$600.00 and not more than \$1,000.00, which fine shall not,
406 except as provided in subsection (n) of this Code section, be subject to suspension, stay,
407 or probation;

408 (B) A period of imprisonment of not fewer than 90 days and not more than 12 months.
409 The judge shall probate at least a portion of such term of imprisonment, in accordance
410 with subparagraph (F) of this paragraph, and to such other terms and conditions as the
411 judge may impose; provided, however, that the offender shall be required to serve not
412 fewer than 72 hours of actual incarceration;

413 (C) Not fewer than 30 days of community service;

414 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program as defined in
415 Code Section 40-5-1. The sponsor of any such program shall provide written notice of
416 the Department of Drivers Service's approval of the program to the person upon
417 enrollment in the program;

418 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as
419 a part of such evaluation, completion of a substance abuse treatment program as defined
420 in Code Section 40-5-1; and

421 (F) A period of probation of 12 months less any days during which the person is
422 actually incarcerated;

423 (3) For the third conviction within a ten-year period of time, as measured from the dates
424 of previous arrests for which convictions were obtained or pleas of nolo contendere were
425 accepted to the date of the current arrest for which a conviction is obtained or a plea of
426 nolo contendere is accepted:

427 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall
428 not, except as provided in subsection (n) of this Code section, be subject to suspension,
429 stay, or probation;

430 (B) A mandatory period of imprisonment of not fewer than 120 days and not more than
431 12 months. The judge shall probate at least a portion of such term of imprisonment, in
432 accordance with subparagraph (F) of this paragraph, and to such other terms and
433 conditions as the judge may impose; provided, however, that the offender shall be
434 required to serve not fewer than 15 days of actual incarceration;

435 (C) Not fewer than 30 days of community service;

436 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program as defined in
437 Code Section 40-5-1. The sponsor of any such program shall provide written notice of
438 the Department of Drivers Service's approval of the program to the person upon
439 enrollment in the program;

440 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as
441 a part of such evaluation, completion of a substance abuse treatment program as defined
442 in Code Section 40-5-1; and

443 (F) A period of probation of 12 months less any days during which the person is
444 actually incarcerated;

445 (4) For the fourth or subsequent conviction within a ten-year period of time, as measured
446 from the dates of previous arrests for which convictions were obtained or pleas of nolo
447 contendere were accepted to the date of the current arrest for which a conviction is
448 obtained or a plea of nolo contendere is accepted:

449 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall
450 not, except as provided in subsection (n) of this Code section, be subject to suspension,
451 stay, or probation;

452 (B) A period of imprisonment of not less than one year and not more than five years;
453 provided, however, that the judge may suspend, stay, or probate all but 90 days of any
454 term of imprisonment imposed under this paragraph. The judge shall probate at least

455 a portion of such term of imprisonment, in accordance with subparagraph (F) of this
 456 paragraph, and to such other terms and conditions as the judge may impose;
 457 (C) Not fewer than 60 days of community service; provided, however, that if a
 458 defendant is sentenced to serve three years of actual imprisonment, the judge may
 459 suspend the community service;
 460 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program as defined in
 461 Code Section 40-5-1. The sponsor of any such program shall provide written notice of
 462 the Department of Driver Service's approval of the program to the person upon
 463 enrollment in the program;
 464 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as
 465 a part of such evaluation, completion of a substance abuse treatment program as defined
 466 in Code Section 40-5-1; and
 467 (F) A period of probation of five years less any days during which the person is
 468 actually imprisoned;
 469 provided, however, that if the ten-year period of time as measured in this paragraph
 470 commenced prior to May 15, 2013, then such fourth or subsequent conviction shall be a
 471 misdemeanor of a high and aggravated nature and punished as provided in paragraph (3)
 472 of this subsection;
 473 (5) For the purpose of imposing a sentence under this subsection, a plea of nolo
 474 contendere based on a violation of this Code section shall constitute a conviction; and
 475 (6) For purposes of determining the number of prior convictions or pleas of nolo
 476 contendere pursuant to the felony provisions of paragraph (4) of this subsection, only
 477 those offenses for which a conviction is obtained or a plea of nolo contendere is accepted
 478 on or after May 15, 2013, shall be considered; provided, however, that nothing in this
 479 subsection shall be construed as limiting or modifying in any way sentence enhancement
 480 provisions under Georgia law, including, but not limited to, provisions relating to
 481 punishment of recidivist offenders pursuant to Title 17.
 482 (n)(1) If the payment of the fine required under subsection (m) of this Code section will
 483 impose an economic hardship on the defendant, the judge, at his or her sole discretion,
 484 may order the defendant to pay such fine in installments, and such order may be enforced
 485 through a contempt proceeding or a revocation of any probation otherwise authorized by
 486 this Code section.
 487 (2) In the sole discretion of the judge, he or she may suspend up to one-half of the fine
 488 imposed under subsection (m) of this Code section conditioned upon the defendant's
 489 undergoing treatment in a substance abuse treatment program as defined in Code Section
 490 40-5-1.

491 (o) As used in this Code section, the term 'personal watercraft' shall have the same
 492 meaning as set forth in Code Section 52-7-8.2."

493 **SECTION 9.**

494 Said chapter is further amended by revising Code Section 52-7-12.5, relating to ordering
 495 drug or alcohol tests, as follows:

496 "52-7-12.5.

497 (a) The test or tests required under Code Section 52-7-12 shall be administered as soon as
 498 possible at the request of a law enforcement officer having reasonable grounds to believe
 499 that the person has been operating or was in actual physical control of a moving vessel
 500 upon the waters of this state in violation of Code Section 52-7-12 and the officer has
 501 arrested such person for a violation of Code Section 52-7-12, any federal law in conformity
 502 with Code Section 52-7-12, or any local ordinance which is identical to Code Section
 503 52-7-12 in accordance with Code Section 52-7-21 or the person has been involved in a
 504 boating accident resulting in serious injuries or fatalities. Subject to Code Section 52-7-12,
 505 the requesting law enforcement officer shall designate which test shall be administered;
 506 ~~provided that the officer shall require a breath test or a blood test and may require a urine~~
 507 ~~test initially and may subsequently require a test or tests for any substance not initially~~
 508 ~~tested.~~

509 (b) At the time a chemical test or tests are requested, the arresting officer shall select and
 510 read to the person the appropriate implied consent warning from the following:

511 (1) Implied consent notice for suspects under age 21 years of age:

512 'Georgia law requires you to submit to state administered chemical tests of your blood,
 513 breath, urine, or other bodily substances for the purpose of determining if you are under
 514 the influence of alcohol or drugs. If you refuse this testing, your privilege to operate
 515 a vessel on the waters of this state will be suspended for a minimum period of one year.
 516 Your refusal to submit to the required testing may be offered into evidence against you
 517 at trial. If you submit to testing; and the results of that test or tests may be used against
 518 ~~you. If the results of such test or tests indicate an alcohol concentration of 0.02 grams~~
 519 ~~or more or the presence of any illegal drug, your privilege to operate a vessel on the~~
 520 ~~waters of this state may be suspended for a minimum period of one year. After first~~
 521 ~~submitting to the required state tests, you are entitled to additional chemical tests of~~
 522 ~~your blood, breath, urine, or other bodily substances at your own expense and from~~
 523 ~~qualified personnel of your own choosing. Will you submit to the state administered~~
 524 ~~chemical tests of your~~ (designate which tests) ~~under the implied consent law?'; or~~

525 (2) Implied consent notice for suspects age 21 years of age or over older:

526 'Georgia law requires you to submit to state administered chemical tests of your blood,
 527 breath, urine, or other bodily substances for the purpose of determining if you are under
 528 the influence of alcohol or drugs. If you refuse this testing, your privilege to operate
 529 a vessel on the waters of this state will be suspended for a minimum period of one year.
 530 Your refusal to submit to the required testing may be offered into evidence against you
 531 at trial. If you submit to testing; and the results of that test or tests may be used against
 532 you. ~~If the results of such test or tests~~ indicate an alcohol concentration of ~~0.10~~ 0.08
 533 grams or more or the presence of any illegal drug, your privilege to operate a vessel on
 534 the waters of this state may be suspended for a minimum period of one year. After first
 535 submitting to the required state tests, you are entitled to additional chemical tests of
 536 your blood, breath, urine, or other bodily substances at your own expense and from
 537 qualified personnel of your own choosing. Will you submit to the state administered
 538 chemical tests of your (designate which tests) under the implied consent law?'

539 If any such notice is used by a law enforcement officer to advise a person of his or her
 540 rights regarding the administration of chemical testing, such person shall be deemed to
 541 have been properly advised of his or her rights under this Code section and under Code
 542 Section 52-7-12.6, and the results of any chemical test, or the refusal to submit to a test,
 543 shall be admitted into evidence against such person. ~~This notice shall be deemed~~
 544 ~~sufficient if such notice read by an arresting officer is substantially complied with~~ Such
 545 notice shall be read in its entirety but need not be read exactly so long as the substance
 546 of the notice remains unchanged.

547 ~~(c) Subsection (b) of this Code section shall apply to any case wherein the request for~~
 548 ~~chemical testing is made regarding an offense committed on or after June 1, 1998.~~
 549 ~~Subsection (b) of this Code section shall not apply to any case wherein the request for~~
 550 ~~chemical testing was made regarding an offense committed prior to June 1, 1998, in which~~
 551 ~~case those provisions of former Code Section 52-7-12 governing the admissibility of~~
 552 ~~evidence of results of chemical testing or refusal to submit to chemical testing which were~~
 553 ~~in effect at the time the offense was committed shall apply~~ Nothing in this Code section
 554 shall be deemed to preclude the acquisition or admission of evidence of a violation of Code
 555 Section 52-7-12 if such evidence was obtained by voluntary consent or a search warrant
 556 as authorized by the Constitution or laws of this state or the United States.

557 (d) If a person under arrest or a person who was involved in any boating accident resulting
 558 in serious injuries or fatalities submits to a chemical test upon the request of a law
 559 enforcement officer and the test results indicate that a suspension of the privilege of
 560 operating a vessel on the waters of this state is required under this Code section, the results
 561 shall be reported to the department. Upon the receipt of a ~~sworn~~ report of the law
 562 enforcement officer that the officer had reasonable grounds to believe the arrested person

563 had been operating or was in actual physical control of a moving vessel upon the waters
564 of this state in violation of Code Section 52-7-12 or that such person had been operating
565 or was in actual physical control of a moving vessel upon the waters of this state and was
566 involved in a boating accident involving serious injuries or fatalities and that the person
567 submitted to a chemical test at the request of the law enforcement officer and the test
568 results indicate either an alcohol concentration of ~~0.10~~ 0.08 grams or more or, for a person
569 under the age of 21 years, an alcohol concentration of 0.02 grams or more, and the vessel
570 being operated was a motorized vessel having ten or more horsepower or was a sailboat
571 more than 12 feet in length, the department shall suspend the person's privilege to operate
572 a vessel upon the waters of this state pursuant to Code Section 52-7-12.6, subject to review
573 as provided for in this Code section.

574 (e) If a person under arrest or a person who was involved in any boating accident resulting
575 in serious injuries or fatalities refuses, upon the request of a law enforcement officer, to
576 submit to a chemical test designated by the law enforcement officer as provided in
577 subsection (a) of this Code section, no test shall be given; but the law enforcement officer
578 shall report the refusal to the department. Upon the receipt of a ~~sworn~~ report of the law
579 enforcement officer that the officer had reasonable grounds to believe the arrested person
580 had been operating or was in actual physical control of a moving vessel upon the waters
581 of this state in violation of Code Section 52-7-12 or that such person had been operating
582 or was in actual physical control of a moving vessel upon the waters of this state and was
583 involved in a boating accident which resulted in serious injuries or fatalities and that the
584 person had refused to submit to the test upon the request of the law enforcement officer,
585 and the vessel being operated was a motorized vessel having ten or more horsepower or
586 was a sailboat more than 12 feet in length, the department shall suspend the person's
587 privilege of operating a vessel on the waters of this state for a period of one year.

588 (f)(1) The law enforcement officer, acting on behalf of the department, shall personally
589 serve the notice of intention to suspend or disqualify the privilege of operating a vessel
590 on the waters of this state of the arrested person or other person refusing such test on such
591 person at the time of the person's refusal to submit to a test or at the time at which such
592 a test indicates that suspension or disqualification is required under this Code section.
593 The officer shall forward to the department the notice of intent to suspend and the ~~sworn~~
594 report required by subsection (d) or (e) of this Code section within ten calendar days after
595 the date of the arrest of such person. The failure of the officer to transmit the sworn
596 report required by this Code section within ten calendar days shall not prevent the
597 department from accepting such report and utilizing it in the suspension of an operator's
598 privilege as provided in this Code section.

599 (2) If notice has not been given by the arresting officer, the department, upon receipt of
 600 the ~~sworn~~ report of such officer, shall suspend the person's privilege to operate a vessel
 601 and, by regular mail, at the last known address, notify such person of such suspension.
 602 The notice shall inform the person of the grounds of suspension, the effective date of the
 603 suspension, and the right to review. The notice shall be deemed received three days after
 604 mailing.

605 (g)(1) A person whose operator's privilege is suspended pursuant to this Code section
 606 shall request, in writing, a hearing within ten business days from the date of personal
 607 notice or receipt of notice sent by certified mail or statutory overnight delivery, return
 608 receipt requested, or the right to said hearing shall be deemed waived. Within 30 days
 609 after receiving a written request for a hearing, the department shall hold a hearing as is
 610 provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
 611 hearing shall be recorded. For purposes of such hearing, a copy of the report required by
 612 subsection (d) or (e) of this Code section shall be made a part of the hearing record and
 613 shall create a rebuttable presumption that the vessel being operated was a motorized
 614 vessel having ten or more horsepower or was a sailboat more than 12 feet in length.

615 (2) The scope of the hearing shall be limited to the following issues:

616 (A)(i) Whether the law enforcement officer had reasonable grounds to believe the
 617 person was operating or in actual physical control of a moving vessel while under the
 618 influence of alcohol or a controlled substance and was lawfully placed under arrest
 619 for violating Code Section 52-7-12.

620 (ii) Whether the person was involved in a vessel accident or collision resulting in
 621 serious injury or fatality;

622 (B) Whether at the time of the request for the test or tests the officer informed the
 623 person of the person's implied consent rights and the consequence of submitting or
 624 refusing to submit to such test and:

625 (i) Whether the person refused the test; or

626 (ii) Whether a test or tests were administered and the results indicated an alcohol
 627 concentration of ~~0.10~~ 0.08 grams or more or, for a person under the age of 21 years,
 628 an alcohol concentration of 0.02 grams or more; and

629 (C) Whether the test or tests were properly administered by an individual possessing
 630 a valid permit issued by the Division of Forensic Sciences of the Georgia Bureau of
 631 Investigation on an instrument approved by the Division of Forensic Sciences or a test
 632 conducted by the Division of Forensic Sciences, including whether the machine at the
 633 time of the test was operated with all its electronic and operating components
 634 prescribed by its manufacturer properly attached and in good working order, which
 635 shall be required. A copy of the operator's permit showing that the operator has been

636 trained on the particular type of instrument used and one of the original copies of the
 637 test results or, where the test is performed by the Division of Forensic Sciences, a copy
 638 of the crime lab report shall satisfy the requirements of this subparagraph.

639 (3) The hearing officer shall, within five calendar days after such hearing, forward a
 640 decision to the department to rescind or sustain the suspension of the person's privilege
 641 to operate a vessel on the waters of this state. If no hearing is requested within the ten
 642 business days specified in paragraph (1) of this subsection, and the failure to request such
 643 hearing is due in whole or in part to the reasonably avoidable fault of the person, the right
 644 to a hearing shall have been waived. The request for a hearing shall not stay the
 645 suspension of the person's privilege to operate a vessel on the waters of this state;
 646 provided, however, that if the hearing is timely requested and is not held within 60 days
 647 and the delay is not due in whole or in part to the reasonably avoidable fault of the
 648 person, the suspension shall be stayed until such time as the hearing is held and the
 649 hearing officer's decision is made.

650 (4) In the event the person is acquitted of a violation of Code Section 52-7-12 or such
 651 charge is initially disposed of other than by a conviction or plea of nolo contendere, then
 652 the suspension shall be terminated. An accepted plea of nolo contendere shall be entered
 653 on the operator's record and shall be considered and counted as a conviction for purposes
 654 of any future violations of Code Section 52-7-12.

655 (h) If the suspension is sustained after such a hearing, the person whose privilege to
 656 operate a vessel on the waters of this state has been suspended under this Code section shall
 657 have a right to file for a judicial review of the department's final decision, as provided for
 658 in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; while such appeal
 659 is pending, the order of the department shall not be stayed.

660 (i) Each time an approved breath-testing instrument is inspected, the inspector shall
 661 prepare a certificate which shall be signed under oath by the inspector and which shall
 662 include the following language:

663 'This breath-testing instrument (serial no. _____) was thoroughly inspected, tested,
 664 and standardized by the undersigned on (date _____) and all of its electronic and
 665 operating components prescribed by its manufacturer are properly attached and are in
 666 good working order.'

667 When properly prepared and executed, as prescribed in this subsection, the certificate shall,
 668 notwithstanding any other provision of law, be self-authenticating, shall be admissible in
 669 any court of law, and shall satisfy the pertinent requirements of paragraph (1) of subsection
 670 (c) of Code Section 52-7-12 and subparagraph (g)(2)(C) of this Code section."

671 **SECTION 10.**

672 Said chapter is further amended by revising Code Section 52-7-12.6, relating to terms of
 673 suspension, as follows:

674 "52-7-12.6.

675 (a) Any operator's privilege to operate a vessel on the waters of this state required to be
 676 suspended under subsection (d) of Code Section 52-7-12.5 shall be suspended subject to
 677 the following terms and conditions:

678 (1) Upon the first suspension pursuant to subsection (d) of Code Section 52-7-12.5
 679 within the previous five years, as measured from the dates of previous arrests for which
 680 a suspension was obtained to the date of the current arrest for which a suspension is
 681 obtained, the period of suspension shall be for one year. Not sooner than ~~30~~ 120 days
 682 following the effective date of suspension, the person may apply to the department for
 683 reinstatement of his or her operator's privilege. Such privilege shall be reinstated if such
 684 person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction
 685 Program approved by the Department of Driver Services and pays a restoration fee of
 686 \$200.00, unless such conviction was a recidivist conviction, in which case the restoration
 687 fee shall be \$500.00. An operator's privilege suspended pursuant to Code Section
 688 52-7-12.5 shall remain suspended until such person submits proof of completion of a DUI
 689 Alcohol or Drug Use Risk Reduction Program approved by the Department of Driver
 690 Services and pays a restoration fee of \$200.00, unless such conviction was a recidivist
 691 conviction, in which case the restoration fee shall be \$500.00;

692 (2) Upon the second suspension pursuant to subsection (d) of Code Section 52-7-12.5
 693 within five years, as measured from the dates of previous arrests for which suspensions
 694 were obtained to the date of the current arrest for which a suspension is obtained, the
 695 period of suspension shall be for three years. Not sooner than ~~120 days~~ 18 months
 696 following the effective date of suspension, the person may apply to the department for
 697 reinstatement of the person's operator's privilege. Such privilege shall be reinstated if
 698 such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction
 699 Program approved by the Department of Driver Services and pays a restoration fee of
 700 \$200.00, unless such conviction was a recidivist conviction, in which case the restoration
 701 fee shall be \$500.00. An operator's privilege suspended pursuant to Code Section
 702 52-7-12.5 shall remain suspended until such person submits proof of completion of a DUI
 703 Alcohol or Drug Use Risk Reduction Program approved by the Department of Driver
 704 Services and pays a restoration fee of \$200.00, unless such conviction was a recidivist
 705 conviction, in which case the restoration fee shall be \$500.00; and

706 (3) Upon the third or subsequent suspension pursuant to subsection (d) of Code Section
 707 52-7-12.5 within five years, as measured from the dates of previous arrests for which

708 suspensions were obtained to the date of the current arrest for which a suspension is
 709 obtained, the period of suspension shall be for not less than five years and until such
 710 person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction
 711 Program approved by the Department of Driver Services and pays a restoration fee of
 712 \$200.00, unless such conviction was a recidivist conviction, in which case the restoration
 713 fee shall be \$500.00; and

714 (4) Any person convicted of violating Code Section 52-7-12.2, 52-7-12.3, or 52-7-12.4
 715 shall have his or her privilege to operate a vessel on the waters of this state suspended for
 716 three years. Such privilege shall be reinstated after the expiration of the three-year period
 717 if such person submits proof of completion of a boating education course approved by the
 718 department and pays a restoration fee of \$200.00, unless such conviction was a recidivist
 719 conviction, in which case the restoration fee shall be \$500.00.

720 (b) In all cases in which the department may return the privilege to operate a vessel on the
 721 waters of this state to an operator prior to the termination of the full period of suspension,
 722 the department may require such tests of operating skill and knowledge as it determines to
 723 be proper, and the department's discretion shall be guided by the operator's past operating
 724 record and performance and the operator's payment of a restoration fee of \$200.00, unless
 725 such conviction was a recidivist conviction, in which case the restoration fee shall be
 726 \$500.00.

727 (c) Any person who operates a vessel or personal watercraft on any of the waters of this
 728 state at a time when such person's privilege to do so has been suspended shall be guilty of
 729 a misdemeanor and shall be punished by a fine of not less than \$500.00 nor more than
 730 \$1,000.00; provided, however, that for a second and each subsequent conviction within a
 731 five-year period measured from the date of the previous arrest upon which a conviction was
 732 obtained to the date of the current arrest, such person shall be guilty of a misdemeanor of
 733 a high and aggravated nature and shall be punished by a fine of not less than \$1,000.00 nor
 734 more than \$1,500.00. The period suspension of the privilege to operate a vessel on the
 735 waters of the state of any person convicted under this subsection shall be extended for an
 736 additional six months for each such conviction."

737 **SECTION 11.**

738 Said chapter is further amended by revising Code Section 52-7-22, relating to safety and
 739 educational programs, as follows:

740 "52-7-22.

741 (a) The department is authorized to inaugurate a comprehensive boating safety and boating
 742 shall establish a comprehensive boating education program and to may seek the
 743 cooperation of boatmen, the federal government, and other states. The department may

744 accept moneys made available under federal safety programs and may issue ~~safety~~ boating
 745 certificates to persons who complete courses in boating ~~safety~~ education.

746 (b) Effective July 1, 2014, and except as otherwise provided by this chapter, anyone born
 747 on or after January 1, 1998, who operates any motorized vessel on the waters of this state
 748 shall complete a boating education course approved by the department prior to the
 749 operation of such vessel.

750 (c) A person shall be exempt from the provisions of subsection (b) of this Code section if
 751 he or she is:

752 (1) Licensed by the United States Coast Guard as a master of a vessel;

753 (2) Operating such vessel on a private lake or pond; or

754 (3) A nonresident who has in his or her possession proof that he or she has completed a
 755 National Association of State Boating Law Administrators approved boater education
 756 course or the equivalency from another state."

757 **SECTION 12.**

758 Said chapter is further amended by revising Code Section 52-7-26, relating to penalty for
 759 violations relative to registration, operation, and sale of watercraft generally, as follows:

760 "52-7-26.

761 Except as otherwise provided in this article, any person who violates this article or any rule
 762 or regulation promulgated hereunder shall be guilty of a misdemeanor. For purposes of
 763 establishing criminal violations of the rules and regulations promulgated by the Board of
 764 Natural Resources as provided in this article, the term 'rules and regulations' ~~shall mean~~
 765 means those rules and regulations of the Board of Natural Resources in force and effect on
 766 ~~January 1, 2012~~ February 5, 2013."

767 **SECTION 13.**

768 Said chapter is further amended by revising subsection (a) of Code Section 52-7-51, relating
 769 to penalty for violations relative to displaying of watercraft information, as follows:

770 "(a) Any person who violates this article or any rules and regulations issued hereunder
 771 shall be guilty of a misdemeanor. For purposes of establishing criminal violations of the
 772 rules and regulations promulgated by the Board of Natural Resources as provided in this
 773 article, the term 'rules and regulations' ~~shall mean~~ means those rules and regulations of the
 774 Board of Natural Resources in force and effect on ~~January 1, 2012~~ February 5, 2013."

775 **SECTION 14.**

776 This Act shall become effective on May 15, 2013, and shall apply to all offenses occurring
 777 on or after May 15, 2013; provided, however, that for purposes of determining the number

778 of prior convictions or pleas of nolo contendere pursuant to the felony provisions of
779 paragraph (4) of subsection (m) of Code Section 52-7-12, only those offenses for which a
780 conviction or a plea of nolo contendere is obtained on or after May 15, 2013, shall be
781 considered.

782

SECTION 15.

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