

House Bill 201 (AS PASSED HOUSE AND SENATE)

By: Representatives Hogan of the 179th, Petrea of the 166th, Williams of the 148th, Mathiak of the 73rd, Williams of the 168th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 52 of the Official Code of Georgia Annotated, relating to waters of the state,
2 ports, and watercraft, so as to provide definitions; to authorize the Board of Natural
3 Resources to promulgate rules and regulations regarding anchoring certain vessels within
4 estuarine areas of the state; to authorize the Department of Natural Resources to establish
5 anchorage areas; to provide that it shall be unlawful for persons to dock or anchor vessels in
6 certain areas; to prohibit the discharge of sewage into estuarine areas from certain vessels;
7 to require certain equipment for such vessels; to require certain record-keeping; to provide
8 for exemptions; to provide for legislative findings and intent; to amend Part 4 of Article 4 of
9 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to coastal
10 marshlands, so as to conform certain provisions; to provide for an effective date; to provide
11 for related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and
15 watercraft, is amended in Article 1 of Chapter 7, relating to general provisions regarding the
16 registration, operation, and sale of watercraft, by adding a new Code section to read as
17 follows:

18 "52-7-8.4.

19 (a) The General Assembly finds that, because of the frequency of live-aboard vessels
20 utilizing the estuarine areas of this state, it is necessary for the protection of the public
21 health, safety, and welfare to prohibit the discharge of sewage from such vessels into
22 estuarine areas of this state. It is declared to be the intent of the General Assembly to
23 protect and enhance the quality of the waters of such estuarine areas by requiring greater
24 environmental protection than is provided pursuant to Section 312 of the federal Water
25 Pollution Control Act, as amended, such that any discharge of sewage from a live-aboard
26 vessel into the waters of such estuarine areas shall be prohibited.

27 (b) As used in this Code section, the term:

28 (1) 'Anchorage areas' means those areas established by the department within estuarine
29 areas whereby a vessel may anchor at night.

30 (2) 'Eligible facility' means a dock facility with a vessel sewage pumpout disposal system
31 approved by the department.

32 (3) 'Estuarine areas' means all tidally influenced waters, marshes, and marshlands lying
33 within a tide-elevation range from 5.6 feet above mean tide level and below.

34 (4) 'Live-aboard vessel' means a floating vessel or other watercraft capable of safe,
35 mechanically propelled navigation under average Georgia coastal wind and current
36 conditions which is utilized as a human or animal abode.

37 (5) 'Night' means between the hours of 30 minutes after sunset and 30 minutes before
38 sunrise.

39 (c) The board is authorized to adopt and promulgate rules and regulations relating to
40 overnight or long-term anchoring within the estuarine areas of this state to include the
41 establishment of an anchorage permit.

42 (d) The department is authorized to establish anchorage areas within the estuarine areas
43 of this state as well as areas where anchoring is not allowed.

44 (e) It shall be unlawful for any person to dock or anchor at night any vessel within the
45 estuarine areas of this state unless it is in an anchorage area established by the department
46 and in compliance with all rules and regulations adopted by the board pursuant to this Code
47 section or at an eligible facility. Nothing in this Code section shall prohibit short-term
48 anchoring for fishing or similar activities, nor shall it prohibit the owner of a vessel from
49 docking at a private recreational dock or noneligible facility so long as such vessel is not
50 utilized as a live-aboard vessel.

51 (f) It shall be unlawful for any person to operate or float any live-aboard vessel within the
52 estuarine areas of this state, whether anchored or not, from which sewage, treated or
53 untreated, is discharged into such estuarine areas.

54 (g) It shall be unlawful to operate or float any live-aboard vessel within the estuarine areas
55 of this state, whether anchored in an anchorage area or at an eligible facility, which has
56 located within or on such vessel a Type I, Type II, or Type III Marine Sanitation Device,
57 as defined in 33 C.F.R. 159, unless such device has a secured mechanism which is
58 constructed and installed in such a manner that it can be emptied only by pumping out to
59 prevent discharge of treated and untreated sewage or is equipped with a holding tank, as
60 such term is defined in Code Section 52-7-3. Examples of secured mechanisms considered
61 to be effective at preventing discharges include, but are not limited to, closing the seacock
62 and padlocking, using a non-releasable wire tie, or removing the seacock handle with the
63 seacock in the closed position.

64 (h) Persons operating or floating live-aboard vessels with marine toilets and subject to the
 65 requirements of this Code section shall create and maintain for at least one year after
 66 creation records which indicate the name and location of pump-out facilities used and the
 67 dates of such use. Persons who own or operate pump-out facilities shall also create a
 68 record and maintain, for at least one year after creation, records which indicate the name
 69 and vessel registration number, the date of pump-out, and verification of pump-out for each
 70 vessel for which pump-out services are performed.

71 (i) In the event that any provision of this Code section is found to conflict with the federal
 72 Water Pollution Control Act, as now or hereafter amended, such federal act shall control.

73 (j) No part of this Code section shall restrict the ability of vessels to seek safe harbor in the
 74 event of dangerous weather or mechanical failure. A reasonable period of time whereby
 75 a vessel owner may seek safe harbor shall not exceed seven days.

76 (k) Exemptions to the requirements in this Code section may be granted by the department
 77 for unique circumstances such as, but not limited to, certain commercial or educational
 78 activities. Conditional permission shall be granted by the commissioner or his or her
 79 designee."

80

SECTION 2.

81 Said title is further amended by revising paragraph (3) of Code Section 52-1-3 relating to
 82 definitions relating to protection of tidewaters, as follows:

83 "(3) 'Structure' means any structure located upon any tidewaters of this state, whether
 84 such structure is floating upon such tidewaters and is made fast by the use of lines, cables,
 85 anchors, or pilings, or any combination thereof, or is built upon pilings embedded in the
 86 beds of such tidewaters when such structure is being or has been used or is capable of
 87 being used as a place of habitation, dwelling, sojournment, or residence for any length
 88 of time; is not being used or is not capable of being used as a means of transportation
 89 upon such tidewaters; and is not owned, occupied, or possessed pursuant to a permit
 90 issued by the commissioner pursuant to Code Section 52-1-10. Such structures may
 91 include, but are not limited to, vessels not being used in navigation; provided, however,
 92 that structures do not include ~~live-aboards~~ live-aboard vessels, as defined in Code Section
 93 ~~12-5-282~~ 52-7-8.4. Structures shall also not include fishing camps, bait shops,
 94 restaurants, or other commercial establishments permitted under Part 4 of Article 4 of
 95 Chapter 5 of Title 12, the 'Coastal Marshlands Protection Act of 1970,' as amended,
 96 which do not discharge sewage into the waters of ~~the~~ this state and are operated in
 97 conformance with the zoning ordinances, if any, of the municipality or county in which
 98 they are located."

99

SECTION 3.

100 Said title is further amended by revising paragraph (4) of Code Section 52-1-32, relating to
101 definitions regarding the right of passage, as follows:

102 "(4) 'Structure' means any structure located upon any navigable stream or river of this
103 state, whether such structure is floating upon such navigable stream or river and is made
104 fast by the use of lines, cables, anchors, or pilings, or any combination thereof, or is built
105 upon pilings embedded in the beds of such navigable stream or river when such structure
106 is being, has been, or is capable of being used as a place of habitation, dwelling,
107 sojournment, or residence for any length of time; is not being used or is not capable of
108 being used as a means of transportation upon such navigable stream or river; and is not
109 owned, occupied, or possessed pursuant to a permit issued by the commissioner pursuant
110 to Code Section 52-1-39. Such structures may include, but are not limited to, vessels not
111 being used in navigation; provided, however, that structures do not include ~~live-boards~~
112 live-aboard vessels, as defined in Code Section ~~12-5-282~~ 52-7-8.4. Structures shall also
113 not include fishing camps, bait shops, restaurants, or other commercial establishments
114 permitted under Part 4 of Article 4 of Chapter 5 of Title 12, the 'Coastal Marshlands
115 Protection Act of 1970,' as amended, which do not discharge sewage into the waters of
116 ~~the~~ this state and are operated in conformance with the zoning ordinances, if any, of the
117 municipality or county in which they are located."

118

SECTION 4.

119 Part 4 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated,
120 relating to coastal marshlands, is amended by revising paragraph (8) of Code
121 Section 12-5-282, relating to definitions regarding coastal marshlands, as follows:

122 "~~(8) 'Live-aboard' means a floating vessel or other watercraft capable of safe,~~
123 ~~mechanically propelled navigation under average Georgia coastal wind and current~~
124 ~~conditions which is utilized as a human or animal abode and is located at a marina or a~~
125 ~~mooring area established by the department~~ Reserved."

126

SECTION 5.

127 Said part is further amended by revising subsection (b) of Code Section 12-5-288, relating
128 to restriction on granting of permits, size restriction, and activities and structures considered
129 contrary to public interest, as follows:

130 "(b) The amount of marshlands to be altered must be minimum in size. The following
131 activities and structures are normally considered to be contrary to the public interest when
132 located in coastal marshlands but the final decision as to whether any activity or structure
133 is considered to be in the public interest shall be in the sound discretion of the committee:

- 134 (1) Filling of marshlands for residential, commercial, and industrial uses;
135 (2) Filling of marshlands for private parking lots and private roadways;
136 (3) Construction of dump sites and depositing of any waste materials or dredge spoil;
137 (4) Dredging of canals or ditches for the purpose of draining coastal marshlands;
138 (5) Mining;
139 (6) Construction of lagoons or impoundments for waste treatment, cooling, agriculture,
140 or aquaculture which would occupy or damage coastal marshlands or life forms therein;
141 and
142 (7) Construction of structures which constitute an obstruction of view to adjoining
143 riparian landowners, including signs and enclosures; ~~and~~
144 ~~(8) Occupying a live-aboard for more than 90 days during any calendar year; provided,~~
145 ~~however, that the commissioner may grant extensions of time beyond 90 days to persons~~
146 ~~making a request in writing stating the reasons for such extension. Owners of docks~~
147 ~~where live-aboards are moored as well as owners and occupants of live-aboards are~~
148 ~~responsible under this part."~~

149 **SECTION 6.**

150 This Act shall become effective on January 1, 2020.

151 **SECTION 7.**

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