

House Bill 994 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 51 and 52 of the Official Code of Georgia Annotated, relating to torts and
2 waters of the state, ports, and watercraft, respectively, so as to revise liability of a boat livery
3 under certain conditions; to provide for definitions; to provide for the liability of an operator
4 of a vessel under certain conditions; to exempt a boat livery from liability under certain
5 conditions; to provide for a boat livery to obtain and carry certain insurance in order to be
6 exempt from certain liability; to provide for available proof of insurance; to provide for a
7 written disclaimer; to provide for related matters; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
12 a new Code section to read as follows:

13 "51-1-22.1.

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

15 (1) 'Boat livery' means a business which holds any vessel for renting, leasing, or
16 chartering.

17 (2) 'Vessel' means a self-propelled, motorized boat or vessel having a length of more
18 than 16 feet with a depth of more than 16 inches, used or capable of being used as a
19 means of transportation on water. Such term includes but is not limited to personal
20 watercraft as defined in Code Section 52-7-8.2. Such term excludes an inflatable or
21 whitewater raft, unless such vessel is self propelled or motorized. Such term excludes a
22 seaplane.

23 (b) Provided that a boat livery obtains and carries insurance coverage as provided for in
24 subsection (c) of this Code section:

25 (1) The operator of a vessel rented, leased, or chartered from a boat livery shall be liable
26 for any injury or damage occasioned by the negligent operation of such vessel, whether
27 the negligence consists of a violation of the statutes of this state or of neglecting to
28 observe such ordinary care in such operation as the rules of common law require; and

29 (2) Such boat livery shall not be liable as an owner as provided for in Code
30 Sections 51-1-21 and 51-1-22 and shall only be liable for any tort caused by the operation
31 of a vessel that the boat livery rented, leased, or chartered:

32 (A) To an individual who the boat livery knew or should have known at the time of or
33 before providing the vessel was not a reasonably safe operator of the vessel;

34 (B) To an individual who the boat livery knew or should have known did not meet the
35 applicable requirements provided for in Code Section 52-7-8.3 or 52-7-22;

36 (C) To an individual who the boat livery knows is operating the vessel in a manner that
37 is reckless or under the influence of any substance such that the judgment of the
38 operator is substantially impaired, and the boat livery does not take reasonable steps to
39 ensure such vessel is not operated in such a manner;

40 (D) When a reasonable inspection revealed or should have revealed that such vessel
41 was not in reasonably safe operating condition; or

42 (E) When such vessel was not in reasonably safe operating condition based on acts or
43 omissions of the boat livery.

44 (c)(1) In order to avail itself of the protections provided in subsection (b) of this Code
45 section, a boat livery shall not rent, lease, or charter or offer to rent, lease, or charter a
46 vessel without first obtaining and maintaining in full force and effect a policy from a
47 licensed insurance carrier in this state or a nonadmitted insurer through a licensed surplus
48 lines broker that provides coverage for such boat livery against any accident, loss, injury,
49 property damage, or other casualty caused by or resulting from the operation of a boat
50 livery vessel. Such policy shall provide coverage of not less than \$500,000.00 per person
51 per occurrence and not less than \$1,000,000.00 in the aggregate per occurrence.
52 (2) A boat livery shall have proof of such insurance coverage available for inspection at
53 the location where the boat livery rents, leases, or charters vessels."

54

SECTION 2.

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

57 "52-7-9.

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

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

66 (c) No ~~livery boat~~ livery vessel, except those having a length of 16 feet or less with a depth
67 of 16 inches or less, shall be operated by any person unless there is on board a copy of the
68 rental agreement authorizing such operation which shows the vessel number, the period of

69 time the ~~boat~~ vessel is authorized for use by such operator, and any other pertinent
70 information that the department may require.

71 (d) If a boat livery has obtained insurance coverage as provided for in Code
72 Section 51-1-22.1, such boat livery shall display in conspicuous locations where boat livery
73 vessels are rented, leased, or chartered the following written disclaimer, provided that such
74 written disclaimer shall also accompany the rental agreement for a boat livery vessel:

75 NOTICE: THE OWNER OF THIS BOAT LIVERY HAS AN INSURANCE POLICY
76 WHICH INSURES SUCH BOAT LIVERY AND DOES NOT INSURE YOU. ANY
77 INSURANCE POLICIES THAT YOU HAVE MAY NOT COVER DAMAGES OR
78 INJURIES CAUSED DIRECTLY OR INDIRECTLY BY YOUR OPERATION OF A
79 BOAT LIVERY VESSEL. YOU MAY BE PERSONALLY LIABLE FOR SUCH
80 DAMAGES OR INJURIES.'

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

83 **SECTION 3.**

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

86 **SECTION 4.**

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