

HB209 INTRODUCED



1 HB209
2 WRH3EEE-1
3 By Representatives Oliver, Stubbs
4 RFD: Public Safety and Homeland Security
5 First Read: 21-Feb-24



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SYNOPSIS:

Under existing law, wakeboarding and wakesurfing are regulated and prohibited under certain conditions, including within 200 feet of any shoreline, dock, pier, boathouse, or other structure on the waters of the state impounded by Lewis Smith Dam (Lewis Smith Lake), R.L. Harris Dam (Lake Wedowee), or on Shoal Creek in Lauderdale County north of Highway 72. Violations of the law are subject to certain fines and penalties.

This bill would add waters of the state impounded by Martin Dam (Lake Martin) to the waters of the state where the law applies.

This bill would also prohibit the operation of a motorboat above idle speed within 100 feet from any shoreline, dock, pier, boathouse, or other structure on the same impounded waters of the state, including Lake Martin, subject to the same penalties.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected



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29 entity; or the Legislature appropriates funds, or
30 provides a local source of revenue, to the entity for
31 the purpose.

32 The purpose or effect of this bill would be to
33 require a new or increased expenditure of local funds
34 within the meaning of the section. However, the bill
35 does not require approval of a local governmental
36 entity or enactment by a 2/3 vote to become effective
37 because it comes within one of the specified exceptions
38 contained in the section.

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A BILL

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TO BE ENTITLED

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AN ACT

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45 Relating to boats and boating on certain fresh waters
46 of this state; to amend Act 2023-459 of the 2023 Regular
47 Session, now appearing as Section 33-5-26.1 of the Code of
48 Alabama 1975, regulating and prohibiting wakeboarding and
49 wakesurfing under certain conditions on certain fresh waters
50 of the state and providing fines and penalties; to add the
51 waters of the state impounded by Martin Dam (Lake Martin) to
52 the waters of the state where the law applies; to prohibit the
53 operation of a motorboat above idle speed within 100 feet from
54 any shoreline, dock, pier, boathouse, or other structure
55 located on any waters to which this act applies including Lake
56 Martin subject to the same penalties and subject to a warning



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57 period; and in connection therewith would have as its purpose
58 or effect the requirement of a new or increased expenditure of
59 local funds within the meaning of Section 111.05 of the
60 Constitution of Alabama of 2022.

61 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

62 Section 1. Section 1 of Act 2023-459 of the 2023
63 Regular Session, now appearing as Section 33-5-26.1 of the
64 Code of Alabama 1975, is amended to read as follows:

65 "§33-5-26.1

66 (a) This section shall apply only to the waters of the
67 state impounded by Lewis Smith Dam (Lewis Smith Lake), to the
68 waters of the state impounded by R.L. Harris Dam (Lake Wedowee
69 or the R.L. Harris Reservoir), to the waters of the state
70 impounded by Martin Dam (Lake Martin), and to ~~Shoals Shoal~~
71 Creek in Lauderdale County north of Highway 72.

72 (b) For purposes of this section, the following words
73 have the following meanings:

74 (1) MOTORBOAT. A motorized recreational vessel.

75 (2) WAKEBOARDING. Either of the following:

76 a. To use a board with or without foot bindings on
77 which a rider is towed by a motorboat across a wake.

78 b. To operate a motorboat in a manner that creates a
79 wake while towing an individual using a board with or without
80 foot bindings to be towed by the motorboat across the boat's
81 wake.

82 (3) WAKESURFING. Either of the following:

83 a. To surf a motorboat's wake, regardless of whether
84 the individual is being pulled by a tow rope attached to the



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85 motorboat that is producing the wake.

86 b. To operate a motorboat in a manner that creates a
87 wake that is, or is intended to be, surfed by another person.

88 (c) On the waters of this state impounded by Lewis
89 Smith Dam (Lewis Smith Lake), on the waters of the state
90 impounded by R.L. Harris Dam (Lake Wedowee or the R.L. Harris
91 Reservoir), on the waters of the state impounded by Martin Dam
92 (Lake Martin), or on ~~Sheals Shoal~~ Shoal Creek in Lauderdale County
93 north of Highway 72, an individual may not engage in
94 wakeboarding or wakesurfing under any of the following
95 conditions:

96 (1) Between sunset and sunrise.

97 (2) On any portion of the impounded waters where the
98 width of the portion is less than 400 feet.

99 (3) Within 200 feet from any shoreline, dock, pier,
100 boathouse, or other structure located on the impounded waters.

101 (4) When not wearing a personal flotation device
102 approved by the United States Coast Guard.

103 (d) On the waters of the state impounded by Lewis Smith
104 Dam (Lewis Smith Lake), on the waters of the state impounded
105 by R.L. Harris Dam (Lake Wedowee or the R.L. Harris
106 Reservoir), on the waters of this state impounded by Martin
107 Dam (Lake Martin), or on Shoal Creek in Lauderdale County
108 north of Highway 72, an individual may not operate a motorboat
109 above idle speed within 100 feet from any shoreline, dock,
110 pier, boathouse, or other structure located on the impounded
111 waters.

112 (e) (1) On a first violation of this section, an



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113 individual shall be guilty of a violation punishable by a fine
114 of not less than one hundred dollars (\$100).

115 (2) On a second or subsequent violation of this section
116 during a single calendar year, the individual shall be guilty
117 of a violation and shall be fined not less than two hundred
118 dollars (\$200). In addition, at the discretion of the court,
119 the individual shall be subject to the revocation or
120 suspension of his or her boater safety certification or vessel
121 operator's certification or vessel operating privileges upon
122 the waters of this state for the duration of the calendar
123 year.

124 (3) Any prosecution for a violation of this section
125 shall be commenced by a citation issued by a law enforcement
126 officer.

127 ~~(e)~~ (f) Nothing in this section shall apply to any
128 regatta, race, ~~trail~~ trial run, parade, tournament, or
129 exhibition ~~on the waters of this state impounded by Lewis~~
130 ~~Smith Dam~~ for which a written marine event application has
131 been submitted to and approved by the Marine ~~Police~~ Patrol
132 Division of the Alabama State Law Enforcement Agency.

133 ~~(f)~~ (g) The Alabama State Law Enforcement Agency and the
134 Department of Conservation and Natural Resources shall take
135 steps to notify the public of the requirements and
136 prohibitions of this section.

137 ~~(g)~~ (h) Notwithstanding the other provisions of this
138 section, for one year following September 1, 2023, an
139 individual who violates ~~this section~~ subsection (c) on a first
140 violation shall receive a written warning of the violation;



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141 and on a second or subsequent violation during the calendar
142 year, the violation shall be treated as a first violation
143 under subsection ~~(d)~~ (e).

144 (i) Notwithstanding the other provisions of this
145 section, for one year following October 1, 2024, an individual
146 who violates subsection (d) on a first violation shall receive
147 a written warning of the violation; and on a second or
148 subsequent violation during the calendar year, the violation
149 shall be treated as a first violation under subsection (e)."

150 Section 2. Although this bill would have as its purpose
151 or effect the requirement of a new or increased expenditure of
152 local funds, the bill is excluded from further requirements
153 and application under Section 111.05 of the Constitution of
154 Alabama of 2022, because the bill defines a new crime or
155 amends the definition of an existing crime.

156 Section 3. This act shall become effective on October
157 1, 2024.