

1 SB170
2 115973-2
3 By Senator Waggoner
4 RFD: Commerce, Transportation, and Utilities
5 First Read: 08-MAR-11

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8 SYNOPSIS: Under existing law, obscuring the identity
9 of a vehicle is a crime and the definition of
10 vehicle includes motorboats and vessels. The crime
11 of obscuring the identity of a vehicle or a boat is
12 a misdemeanor and the vehicle or boat would be
13 returned to the holder if it could not be proved
14 that the vehicle or boat is stolen.

15 Under existing law relating to motor
16 vehicles, the Uniform Certificate of Title and
17 Antitheft Act provides further for the
18 falsification of motor vehicle identification
19 numbers or registration, criminal penalties for
20 violations, and forfeiture procedures under certain
21 conditions.

22 This bill would adopt similar provisions
23 relating to boats as the provisions relating to
24 motor vehicles under the Uniform Certificate of
25 Title and Antitheft Act. The bill would prohibit
26 the falsification of the identification number or
27 registration of a vessel or vessel trailer, provide

1 criminal penalties, and provide further for
2 forfeiture procedures under similar conditions.

3 Amendment 621 of the Constitution of Alabama
4 of 1901, now appearing as Section 111.05 of the
5 Official Recompilation of the Constitution of
6 Alabama of 1901, as amended, prohibits a general
7 law whose purpose or effect would be to require a
8 new or increased expenditure of local funds from
9 becoming effective with regard to a local
10 governmental entity without enactment by a 2/3 vote
11 unless: it comes within one of a number of
12 specified exceptions; it is approved by the
13 affected entity; or the Legislature appropriates
14 funds, or provides a local source of revenue, to
15 the entity for the purpose.

16 The purpose or effect of this bill would be
17 to require a new or increased expenditure of local
18 funds within the meaning of the amendment. However,
19 the bill does not require approval of a local
20 governmental entity or enactment by a 2/3 vote to
21 become effective because it comes within one of the
22 specified exceptions contained in the amendment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to boats and vessels manufactured and sold
2 after 1985; to prohibit the unauthorized alteration of
3 identification numbers on or the registration information
4 relating to vessels, outboard motors, vessel trailers, or
5 identifiable component parts thereof; to provide criminal
6 penalties for violations, including illegal possession
7 thereof; to provide for forfeiture procedures under certain
8 conditions; and in connection therewith would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds within the meaning of Amendment 621
11 of the Constitution of Alabama of 1901, now appearing as
12 Section 111.05 of the Official Recompilation of the
13 Constitution of Alabama of 1901, as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. (a) A person who willfully removes or
16 falsifies an identification number of a vessel, outboard
17 motor, vessel trailer, or the engine, transmission, or other
18 identifiable component part of a vessel is guilty of a Class A
19 misdemeanor and shall be punished as required by law.

20 (b) A person who, willfully and with intent to
21 conceal or misrepresent the identity of a vessel, outboard
22 motor, vessel trailer, or the engine, transmission, or other
23 identifiable component part of a vessel, removes or falsifies
24 an identification number of the same, or possesses any part,
25 such as a boat identification plate or powerhead serial number
26 plug, of a vessel, outboard motor, or the engine,
27 transmission, or other identifiable component part of a vessel

1 which has an identification number on it that has been removed
2 from another vessel, outboard motor, or the engine,
3 transmission, or other identifiable component part of a
4 vessel, is guilty of a Class A misdemeanor and shall be
5 punished as required by law.

6 (c) A person who buys, receives, possesses, sells,
7 or disposes of a vessel, outboard motor, vessel trailer, or an
8 engine, transmission, or other identifiable component part of
9 a vessel, knowing that an identification number of the same
10 has been removed or falsified, is guilty of a Class A
11 misdemeanor and shall be punished as required by law.

12 Notwithstanding the foregoing, this subsection shall not apply
13 to a vessel, vessel trailer, or a component part of a vessel
14 lawfully recovered by the owner or an insurance company after
15 theft with an identification number removed or falsified if,
16 prior to any sale or other disposition of the vessel or part,
17 a correct identification number, as provided for in subsection
18 (g), is placed on the vessel, vessel trailer, or part and any
19 incorrect number is removed. Any sale or other disposition in
20 violation of this requirement shall be a Class A misdemeanor
21 and shall be punished as required by law.

22 (d) A person who buys, receives, possesses, sells,
23 or disposes of a vessel, outboard motor, vessel trailer, or
24 the engine, transmission, or other identifiable component part
25 of a vessel, with knowledge that an identification number of
26 same has been removed or falsified and with intent to conceal

1 or misrepresent the identity of same is guilty of a Class A
2 misdemeanor and shall be punished as required by law.

3 (e) A person who removes a registration number or
4 decal from a vessel or affixes to a vessel a registration
5 number or decal not authorized by law for use on it, in either
6 case with intent to conceal or misrepresent the identity of a
7 vessel or its owner, is guilty of a Class A misdemeanor and
8 shall be punished as required by law.

9 (f) As used in this section, the following words
10 have the following meanings:

11 (1) FALSIFY. The term includes alter and forge.

12 (2) IDENTIFIABLE COMPONENT PART. The term includes
13 any part of a vessel or outboard motor that has an identifying
14 number stamped or placed on it by the manufacturer or other
15 authorized person or any part that can be identified by other
16 means as being a part of a particular vessel or outboard
17 motor.

18 (3) IDENTIFICATION NUMBER. The term includes an
19 identifying number, engine number, outboard motor number, or
20 other distinguishing number or mark placed on a vessel,
21 outboard motor, vessel trailer, or the engine, transmission,
22 or other component part of a vessel, by its manufacturer or by
23 authority of the Department of Conservation and Natural
24 Resources or in accordance with the laws of another state or
25 country.

26 (4) REMOVE. The term includes deface, cover, and
27 destroy.

1 (5) VESSEL. As defined by Section 33-5-3 of the Code
2 of Alabama 1975, manufactured and sold after 1985.

3 (g) An identification number may be placed on a
4 vessel, outboard motor, vessel trailer, or the engine,
5 transmission, or other identifiable component part of a
6 vessel, by its manufacturer in the regular course of business
7 or placed or restored on same by authority of the Department
8 of Conservation and Natural Resources without violating this
9 section. An identification number so placed or restored is not
10 falsified.

11 (h) Any vessel, outboard motor, vessel trailer, or
12 the engine, transmission, or other identifiable component
13 part, wherein the identification number or numbers appear to
14 be altered, or removed may be seized and detained by law
15 enforcement officials for a period of time not to exceed 72
16 hours for determination of the true identity of the vessel,
17 outboard motor, or the engine, transmission, or other
18 component parts. The law enforcement officials shall inform in
19 writing the person from whom the property was seized as to the
20 disposition of the case within two days after the 72-hour time
21 frame ends. Any item seized by law enforcement officials,
22 wherein ownership cannot be determined shall be contraband and
23 subject to forfeiture.

24 (i) Any seized item taken or retained under this
25 section shall not be subject to replevin, but is deemed to be
26 in the custody of the state, county, or municipal law

1 enforcement agency subject only to the orders and judgment of
2 the court having jurisdiction over the forfeiture proceedings.

3 (j) Any vessel, vessel trailer, or outboard motor
4 which has been reported stolen and subsequently recovered by
5 law enforcement officials may be returned to the person
6 claiming ownership upon proper ownership documentation. Proper
7 ownership documentation may include the identification number
8 or other means of identification such as photographs, purchase
9 documents, or registration papers along with a stolen property
10 report showing ownership and theft. Any recovered vessel,
11 outboard motor, or other property where ownership is in
12 question shall be returned subject only to the orders of a
13 circuit court having jurisdiction of the matter.

14 (k) No civil liability shall attach to any
15 governmental agency or law enforcement official acting in good
16 faith under this section.

17 (1) When property is forfeited under this section,
18 the state, county, or municipal law enforcement agency, with
19 approval of a court of competent jurisdiction, may do any of
20 the following:

21 (1) Retain it for official use.

22 (2) Have it destroyed.

23 (3) Repair the vessel or other property or sell it
24 to the highest bidder with the proceeds deposited into the
25 general fund of the state, county, or municipal governing body
26 earmarked for law enforcement purposes, or both.

1 Any proceeds from the sale of any vessel or other
2 property forfeited under this section to any division of the
3 Department of Conservation and Natural Resources shall be
4 deposited to the credit of the respective fund out of which
5 the division's law enforcement activities are primarily
6 funded, and used for law enforcement purposes. No money shall
7 be withdrawn or expended from these funds for any purpose
8 unless the money has been allotted and budgeted in accordance
9 with Article 4, commencing with Section 41-4-80, of Chapter 4
10 of Title 41 of the Code of Alabama 1975, and only in the
11 amounts and for the purposes provided by the Legislature in
12 the general appropriations act or other appropriation acts.

13 (m) Any vessel, outboard motor, or other property
14 which is retained for official use under this section shall be
15 destroyed upon its becoming unserviceable.

16 (n) This section shall not be interpreted to require
17 any boat or vessel to obtain a title.

18 Section 2. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 3. This act shall become effective January
2 1, following its passage and approval by the Governor, or upon
3 its otherwise becoming a law.