

1 HB204
2 147011-1
3 By Representatives Lee, Chesteen, Gaston, Sessions, Merrill,
4 Collins, Clouse, Patterson, Jones, Shiver, Boyd, McCutcheon,
5 Hall, McClurkin, Ison, Nordgren, Henry and Fincher
6 RFD: Agriculture and Forestry
7 First Read: 07-FEB-13

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8 SYNOPSIS: This bill relates to navigable waters and
9 navigation in Alabama. This bill would provide that
10 the term navigable waters would include canals. The
11 bill would also prohibit a person from anchoring,
12 mooring, or abandoning a vessel in navigable waters
13 so that it obstructs navigation and would provide
14 for criminal penalties.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.
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9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to navigable waters and navigation; to
14 amend Sections 33-7-1 and 33-7-51, Code of Alabama 1975, to
15 further define navigable waters; to prohibit a person from
16 leaving a vessel so that it obstructs navigation; to provide
17 penalties; and in connection therewith would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds within the meaning of Amendment 621
20 of the Constitution of Alabama of 1901, now appearing as
21 Section 111.05 of the Official Recompilation of the
22 Constitution of Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 33-7-1 and 33-7-51, Code of
25 Alabama 1975, are amended to read as follows:

26 "§33-7-1.

1 "All navigable waters in this state are public
2 thoroughfares. For purposes of this article, navigable waters
3 includes the waters in manmade canals if the waters traverse,
4 flow upon or through, or are bound by or touch property, title
5 to which is held by more than one person, firm, or
6 corporation.

7 "§33-7-51.

8 "(a) No such structure shall be built or maintained
9 upon or over the lands of the state or lands underlying the
10 navigable waters of the state, nor shall any vessel be moored,
11 anchored, sunk, or abandoned, so as to in any wise
12 unreasonably obstruct navigation, or the freedom of the use of
13 the navigable waters of the state for recreation, commerce and
14 navigation, or for harbor purposes; nor shall any charge be
15 exacted of any vessel, barge, boat, or raft, either singly or
16 in fleets, for anchoring, mooring, or tying up or remaining on
17 the navigable waters, presumptive or established, either or
18 both of them, alongside of or on the lands of the state
19 abutting thereon or thereunder, not then occupied by the
20 structures and improvements placed thereon or therein pursuant
21 hereto; or in the waters in front of ~~said~~ the wharves and
22 other structures so long as the reasonable use of ~~said~~ the
23 wharves and other structures occupying the lands of the state,
24 or the ~~aforsaid~~ navigable waters of the state or the use of
25 the approaches to ~~said~~ the walls and other structures, or the
26 coaling of vessels using same, is not unreasonably restricted,
27 interfered with, or prevented thereby; subject, however, to

1 the further reservation and right of the Legislature or other
2 authority constituted by it for such purpose, to vacate or
3 cause to be vacated and repossess or cause to be repossessed
4 by the state so much of ~~said~~ the riparian lands belonging to
5 it, as may be at any time necessary for use by the state or
6 federal government in aid of navigation and commerce or for
7 harbor purposes, or to insure the freedom and safety of
8 navigation or the public or the property abutting upon the
9 navigable waters of the state, but not otherwise, and to that
10 end may proceed under its right of eminent domain as to any
11 structures thereon, so that the right of the state and the
12 public may be preserved and insured under Section 24 of
13 Article 1 of the Constitution of Alabama.

14 "(b) A violation of this section is a Class B
15 misdemeanor. If a person is charged with a violation of this
16 section and the person fails to remove the vessel or otherwise
17 correct the violation within 24 hours, each day of violation
18 thereafter shall constitute a separate offense."

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

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.