

BOAT WAKE REGULATION: FLORIDA vs. GEORGIA

	FLORIDA	GEORGIA
Authorizing Act	Vessel Safety Law Chapter 327, Florida Statutes	Georgia Boat Safety Act Title 52, Chapter 7, Article 1 Official Code of Georgia
General Scope	<p>“Any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. The failure to operate a vessel in a manner described in this subsection constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates the provisions of this subsection commits a noncriminal violation as defined in s. 775.08.” § 327.33(2), Fla. Stat.</p>	<p>“It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote the uniformity of laws relating thereto.” § 52-7-2, OCG</p> <p>“(a) The speed of each vessel shall at all times be regulated so as to avoid danger or injury or damage or unnecessary inconvenience, directly or by the effect of the wash or wave raised by the vessel, while in the vicinity of swimming areas, docks, floating boat houses, moored boats, or boats engaged in fishing activities.</p> <p>(d) No vessel shall be operated at a speed greater than is reasonable and prudent under the conditions, and such vessel's operator shall have regard for the actual and potential hazards then existing.” § 52-7-17(a)&(d), OCG</p> <p style="text-align: center;">The 100 Foot Rule</p> <p>“No person shall operate any vessel . . . on the waters of this state at a speed greater than idle speed within 100 feet of any vessel which is moored, anchored, or adrift outside normal traffic channels, or any wharf, dock, pier, piling, bridge structure or abutment, person in the water, or shoreline adjacent to a full-time or part-time residence, public park, public beach, public swimming area, marina, restaurant, or other public use area” § 52-7-18(f), OCG</p>
Intent	regulates the safe operation of boats and personal watercraft on Florida waters	“to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote the uniformity of laws relating thereto.” § 52-7-2, OCG.
Agency Authority	“The commission [Fish & Wildlife Conservation Commission] has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring powers or duties upon it.” § 327.04, Fla. Stat.	“The Board of Natural Resources is authorized to adopt any regulations necessary for the administration and enforcement of this article” § 52-7-23, OCG

<p style="text-align: center;">Local Regulation</p>	<p>“(1) The provisions of this chapter and chapter 328 shall govern the operation, equipment, and all other matters relating thereto whenever any vessel shall be operated upon the waters of this state or when any activity regulated hereby shall take place thereon.</p> <p>(2) Nothing in this chapter or chapter 328 shall be construed to prevent the adoption of any ordinance or local regulation relating to operation of vessels, except that a county or municipality shall not enact, continue in effect, or enforce any ordinance or local regulation: . . .</p> <p>(d)Discriminating against personal watercraft;</p> <p>(h) That conflicts with any provisions of this chapter or any amendments thereto or rules adopted thereunder.” § 327.60(1) & (2)(h), Fla. Stat.</p> <p>The Florida Fish and Wildlife Conservation Commission (“FWC”) is charged with the implementation of the Chapter and the authority to adopt rules and regulations in connection with its duties under the Chapter. § 327.04, Fla. Stat.</p> <p>Power has also been delegated to local governments under the Chapter to adopt local laws relating to the operation and equipment of vessels pursuant to certain statutory limitations and state oversight. § 327.60(2), Fla. Stat.; § 327.46(1)(b)&(c), Fla. Stat (re: establishing boating-restricted areas)</p>	<p>“(a) This article and other applicable laws of this state shall govern the operation, equipment, and numbering of vessels and all other matters relating thereto, whenever any vessel shall be operated on the waters of this state or when any activity regulated by this article shall take place thereon; but nothing in this article shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels, the provisions of which are identical to the provisions of this article, amendments thereto, or regulations issued thereunder, provided that such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this article, amendments thereto, or regulations issued thereunder.</p> <p>(b) Any political subdivision may at any time, but only after approval by the commissioner [DNR] upon a showing of necessity because of unusual or special circumstances, adopt any ordinance or local law relating to the operation and equipment of vessels on any waters within its territorial limits which is more stringent than those provided for in this article.” § 52-7-21, OCG</p>
<p style="text-align: center;">“Idle Speed”/ “Slow Speed”</p>	<p>“‘Idle Speed No Wake’ and ‘Idle Speed’ may be used interchangeably and mean that a vessel must proceed at a speed no greater than that which will maintain steerageway and headway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow.” 68D-23.103(2)(a), FAC</p> <p>“‘Slow Speed’ and ‘Slow Speed Minimum Wake’ may be used interchangeably and mean that a vessel must be fully off plane and completely settled into the water. The vessel</p>	<p>“‘Idle speed’ means a slow speed maintained by the operator of a mechanically propelled vessel reached by engaging the engine of the vessel into said speed by reducing the throttle to a minimum.” § 52-7-3(9), OCG</p>

	must then proceed at a speed which is reasonable and prudent under the prevailing circumstances so as to avoid the creation of an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels or other persons using the waterway." 68D-23.103(2)(b), FAC	
"No Wake"	see above	"'No wake' means that the wake or wash created by the movement of the vessel through the water is minimal." § 52-7-3(13), OCG
Enforcement	Both FWC and local law enforcement officers are charged with enforcement of the Chapter. § 327.70(1), Fla. Stat.	DNR is the primary enforcement authority of the Georgia Boat Safety Act. Local law enforcement additionally have general enforcement authority.
Violation	<p>A violation of any navigational rule constitutes a noncriminal violation (§ 327.33(2), Fla. Stat.) enforced by a boating citation (§ 327.70(3)(a), Fla. Stat.) and punishable by fine, forfeiture, or civil penalty (§775.08(3)).</p> <p>The reckless operation of a vessel constitutes a first-degree misdemeanor (§ 327.33(1), Fla. Stat.).</p> <p>A violation of any navigational rule resulting in an accident constitutes a second-degree misdemeanor. § 327.70(3)(a), Fla. Stat.</p>	<p>"Except as otherwise provided in this article, any person who violates this article or any rule or regulation promulgated hereunder shall be guilty of a misdemeanor." § 52-7-26, OCG</p>

M. Austin Moretz, J.D. Candidate 2011
University of Florida, Conservation Clinic

October 14, 2010