



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB5844

Introduced 11/16/2022, by Rep. Janet Yang Rohr - Terra Costa  
Howard - Mark Batinick

#### SYNOPSIS AS INTRODUCED:

615 ILCS 5/5	from Ch. 19, par. 52
615 ILCS 5/5a new	
615 ILCS 5/25	from Ch. 19, par. 72

Amends the Rivers, Lakes, and Streams Act. Provides that the public right to access and use navigable waters includes all rights recognized by State or federal law, including the rights set forth in the Northwest Ordinance of 1787 and the federal navigational servitude, and all rights arising under the public trust doctrine, which shall be understood and applied in a manner consistent with the spirit of the Act to maximize the full and free enjoyment of State waters by the public. Provides that any segment of a lake, river, or stream that is capable of supporting use by commercial or recreational watercraft for a substantial part of the year, or that is actually so used, shall be deemed navigable, and shall be open to public access and use, unless the contrary is proven in litigation by a preponderance of the evidence. Provides that no action or inaction by the Department of Natural Resources shall create a presumption, in any civil or criminal litigation, against the navigability of any waterway segment. Provides that the public right to access and use navigable waters shall be subject to specified protections and limitations, and a violation shall be punished as otherwise provided by law and, if likely to continue, enjoined by a court of competent jurisdiction. Provides that nothing in the Act shall limit the right of any person to challenge the legality of alleged interference with the public right to access or use navigable waters in any appropriate civil or criminal litigation.

LRB102 29245 HEP 41506 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Rivers, Lakes, and Streams Act is amended  
5 by changing Sections 5 and 25 and by adding Section 5a as  
6 follows:

7 (615 ILCS 5/5) (from Ch. 19, par. 52)

8 Sec. 5. The Department of Natural Resources shall upon  
9 behalf of the State of Illinois, have jurisdiction and  
10 supervision over all of the rivers and lakes of the State of  
11 Illinois, wherein the State of Illinois or the people of the  
12 State have any rights or interests, and shall make a list by  
13 counties of all the waters of Illinois, showing the waters,  
14 ~~both navigable and non-navigable,~~ that are found in each  
15 county of the State, and if the same are lakes, the extent of  
16 the shore lines and the amount, extent and area of the water  
17 surface; and in a like way, if the same are rivers, and  
18 specifying ~~whether the same are navigable or non-navigable,~~  
19 ~~and~~ whether they have or have not been meandered.

20 (Source: P.A. 89-445, eff. 2-7-96.)

21 (615 ILCS 5/5a new)

22 Sec. 5a. Public right to access and use navigable waters.

1       (a) The public right to access and use navigable waters  
2 includes all rights recognized by State or federal law,  
3 including the rights set forth in the Northwest Ordinance of  
4 1787 and the federal navigational servitude, and all rights  
5 arising under the public trust doctrine, which shall be  
6 understood and applied in a manner consistent with the spirit  
7 of Section 26 to maximize the full and free enjoyment of State  
8 waters by the public. Any segment of a lake, river, or stream  
9 that is capable of supporting use by commercial or  
10 recreational watercraft for a substantial part of the year, or  
11 that is actually so used, shall be deemed navigable under such  
12 laws and this Act, and shall be open to public access and use,  
13 unless the contrary is proven in litigation by a preponderance  
14 of the evidence. No action or inaction by the Department of  
15 Natural Resources shall create a presumption, in any civil or  
16 criminal litigation, against the navigability of any waterway  
17 segment.

18       (b) The public right to access and use navigable waters  
19 shall be subject to the following protections and limitations,  
20 a violation of which shall be punished as otherwise provided  
21 by law, and, if likely to continue, enjoined by a court of  
22 competent jurisdiction:

23           (1) no person shall interfere with or obstruct public  
24 access to and use of navigable waters for any lawful  
25 purpose;

26           (2) any person lawfully using navigable waters may

1 touch the beds of bodies of water and adjacent riparian  
2 lands as reasonably needed for the person's lawful  
3 activities, but any portage on dry land shall be made in a  
4 safe manner that is (i) most direct, (ii) least invasive,  
5 and (iii) closest to the water;

6 (3) any person lawfully using navigable waters shall  
7 refrain from littering or otherwise creating a public or  
8 private nuisance; and

9 (4) any person using navigable waters shall not enter  
10 or exit from a point that is not public property or a  
11 public roadway without the express or implied permission  
12 of the occupant or owner of the property.

13 (c) Nothing in this Section shall be construed to limit or  
14 supersede the power or authority of any unit of local  
15 government to regulate or police public property under the  
16 ownership or control of the unit of local government,  
17 including, but not limited to, any segment of a lake, river,  
18 stream, or any other navigable waters, and the ingress or  
19 egress thereto, or to otherwise alter the power or authority  
20 granted to that unit of local government under any State law.

21  
22 (615 ILCS 5/25) (from Ch. 19, par. 72)

23 Sec. 25. The Attorney General, any State's Attorney of any  
24 county or any attorney authorized by the Department of Natural  
25 Resources shall have the power to represent said Department,

1 and in the name of the State of Illinois, invoke for the  
2 purposes specified in this act, all of the power of the State  
3 to prevent the wrongs and injuries herein referred to, and for  
4 that purpose, such Attorney General, State's attorney or  
5 authorized attorney shall be deemed to be the proper  
6 representative of the State, with full power and authority  
7 upon its behalf to prosecute all necessary suits or actions.

8 Nothing in this Act shall limit the right of any person to  
9 challenge the legality of alleged interference with the public  
10 right to access or use navigable waters in any appropriate  
11 civil or criminal litigation.

12 (Source: P.A. 89-445, eff. 2-7-96.)