



Sen. Julie A. Morrison

Filed: 4/22/2013

09800SB1479sam003

LRB098 10147 MLW 44907 a

1 AMENDMENT TO SENATE BILL 1479

2 AMENDMENT NO. _____. Amend Senate Bill 1479, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment No.
4 2 as follows:

5 on page 17, by replacing line 21 with "by changing Section 5-16
6 and by adding Section 5-16c as follows:"; and

7 on page 17, below line 21, by inserting the following:

8 "(625 ILCS 45/5-16)

9 Sec. 5-16. Operating a watercraft under the influence of
10 alcohol, other drug or drugs, intoxicating compound or
11 compounds, or combination thereof.

12 (A) 1. A person shall not operate or be in actual physical
13 control of any watercraft within this State while:

14 (a) The alcohol concentration in such person's
15 blood or breath is a concentration at which driving a

1 motor vehicle is prohibited under subdivision (1) of
2 subsection (a) of Section 11-501 of the Illinois
3 Vehicle Code;

4 (b) Under the influence of alcohol;

5 (c) Under the influence of any other drug or
6 combination of drugs to a degree which renders such
7 person incapable of safely operating any watercraft;

8 (c-1) Under the influence of any intoxicating
9 compound or combination of intoxicating compounds to a
10 degree that renders the person incapable of safely
11 operating any watercraft;

12 (d) Under the combined influence of alcohol and any
13 other drug or drugs to a degree which renders such
14 person incapable of safely operating a watercraft; or

15 (e) There is any amount of a drug, substance, or
16 compound in the person's blood or urine resulting from
17 the unlawful use or consumption of cannabis listed in
18 the Cannabis Control Act, a controlled substance
19 listed in the Illinois Controlled Substances Act, or an
20 intoxicating compound listed in the Use of
21 Intoxicating Compounds Act.

22 2. The fact that any person charged with violating this
23 Section is or has been legally entitled to use alcohol,
24 other drug or drugs, any intoxicating compound or
25 compounds, or any combination of them, shall not constitute
26 a defense against any charge of violating this Section.

1 3. Every person convicted of violating this Section
2 shall be guilty of a Class A misdemeanor, except as
3 otherwise provided in this Section.

4 4. Every person convicted of violating this Section
5 shall be guilty of a Class 4 felony if:

6 (a) He has a previous conviction under this
7 Section;

8 (b) The offense results in personal injury where a
9 person other than the operator suffers great bodily
10 harm or permanent disability or disfigurement, when
11 the violation was a proximate cause of the injuries. A
12 person guilty of a Class 4 felony under this
13 subparagraph (b), if sentenced to a term of
14 imprisonment, shall be sentenced to a term of not less
15 than one year nor more than 12 years; or

16 (c) The offense occurred during a period in which
17 his or her privileges to operate a watercraft are
18 revoked or suspended, and the revocation or suspension
19 was for a violation of this Section or was imposed
20 under subsection (B).

21 5. Every person convicted of violating this Section
22 shall be guilty of a Class 2 felony if the offense results
23 in the death of a person. A person guilty of a Class 2
24 felony under this paragraph 5, if sentenced to a term of
25 imprisonment, shall be sentenced to a term of not less than
26 3 years and not more than 14 years.

1 5.1. A person convicted of violating this Section or a
2 similar provision of a local ordinance who had a child
3 under the age of 16 aboard the watercraft at the time of
4 offense is subject to a mandatory minimum fine of \$500 and
5 to a mandatory minimum of 5 days of community service in a
6 program benefiting children. The assignment under this
7 paragraph 5.1 is not subject to suspension and the person
8 is not eligible for probation in order to reduce the
9 assignment.

10 5.2. A person found guilty of violating this Section,
11 if his or her operation of a watercraft while in violation
12 of this Section proximately caused any incident resulting
13 in an appropriate emergency response, is liable for the
14 expense of an emergency response as provided in subsection
15 (m) of Section 11-501 of the Illinois Vehicle Code.

16 5.3. In addition to any other penalties and
17 liabilities, a person who is found guilty of violating this
18 Section, including any person placed on court supervision,
19 shall be fined \$100, payable to the circuit clerk, who
20 shall distribute the money to the law enforcement agency
21 that made the arrest. In the event that more than one
22 agency is responsible for the arrest, the \$100 shall be
23 shared equally. Any moneys received by a law enforcement
24 agency under this paragraph 5.3 shall be used to purchase
25 law enforcement equipment or to provide law enforcement
26 training that will assist in the prevention of alcohol

1 related criminal violence throughout the State. Law
2 enforcement equipment shall include, but is not limited to,
3 in-car video cameras, radar and laser speed detection
4 devices, and alcohol breath testers.

5 6. (a) In addition to any criminal penalties imposed,
6 the Department of Natural Resources shall suspend the
7 watercraft operation privileges of any person
8 convicted or found guilty of a misdemeanor under this
9 Section, a similar provision of a local ordinance, or
10 Title 46 of the U.S. Code of Federal Regulations for a
11 period of one year, except that a first time offender
12 is exempt from this mandatory one year suspension.

13 As used in this subdivision (A)6(a), "first time
14 offender" means any person who has not had a previous
15 conviction or been assigned supervision for violating
16 this Section, a similar provision of a local ordinance
17 or, Title 46 of the U.S. Code of Federal Regulations,
18 or any person who has not had a suspension imposed
19 under subdivision (B)3.1 of Section 5-16.

20 (b) In addition to any criminal penalties imposed,
21 the Department of Natural Resources shall suspend the
22 watercraft operation privileges of any person
23 convicted of a felony under this Section, a similar
24 provision of a local ordinance, or Title 46 of the U.S.
25 Code of Federal Regulations for a period of 3 years.

26 (B) 1. Any person who operates or is in actual physical

1 control of any watercraft upon the waters of this State
2 shall be deemed to have given consent to a chemical test or
3 tests of blood, breath or urine for the purpose of
4 determining the content of alcohol, other drug or drugs,
5 intoxicating compound or compounds, or combination thereof
6 in the person's blood if arrested for any offense of
7 subsection (A) above. The chemical test or tests shall be
8 administered at the direction of the arresting officer. The
9 law enforcement agency employing the officer shall
10 designate which of the tests shall be administered. A urine
11 test may be administered even after a blood or breath test
12 or both has been administered.

13 1.1. For the purposes of this Section, an Illinois Law
14 Enforcement officer of this State who is investigating the
15 person for any offense defined in Section 5-16 may travel
16 into an adjoining state, where the person has been
17 transported for medical care to complete an investigation,
18 and may request that the person submit to the test or tests
19 set forth in this Section. The requirements of this Section
20 that the person be arrested are inapplicable, but the
21 officer shall issue the person a uniform citation for an
22 offense as defined in Section 5-16 or a similar provision
23 of a local ordinance prior to requesting that the person
24 submit to the test or tests. The issuance of the uniform
25 citation shall not constitute an arrest, but shall be for
26 the purpose of notifying the person that he or she is

1 subject to the provisions of this Section and of the
2 officer's belief in the existence of probable cause to
3 arrest. Upon returning to this State, the officer shall
4 file the uniform citation with the circuit clerk of the
5 county where the offense was committed and shall seek the
6 issuance of an arrest warrant or a summons for the person.

7 1.2. Notwithstanding any ability to refuse under this
8 Act to submit to these tests or any ability to revoke the
9 implied consent to these tests, if a law enforcement
10 officer has probable cause to believe that a sailboat or
11 non-powered watercraft operated by or under actual
12 physical control of a person under the influence of
13 alcohol, other drug or drugs, intoxicating compound or
14 compounds, or any combination of them has caused the death
15 of or personal injury to another, that person shall submit,
16 upon the request of a law enforcement officer, to a
17 chemical test or tests of his or her blood, breath, or
18 urine for the purpose of determining the alcohol content or
19 the presence of any other drug, intoxicating compound, or
20 combination of them. For the purposes of this Section, a
21 personal injury includes severe bleeding wounds, distorted
22 extremities, and injuries that require the injured party to
23 be carried from the scene for immediate professional
24 attention in either a doctor's office or a medical
25 facility.

26 2. Any person who is dead, unconscious or who is

1 otherwise in a condition rendering such person incapable of
2 refusal, shall be deemed not to have withdrawn the consent
3 provided above, and the test may be administered.

4 3. A person requested to submit to a chemical test as
5 provided ~~above~~ by this Section or Section 5-16c shall be
6 verbally advised by the law enforcement officer requesting
7 the test that a refusal to submit to the test will result
8 in suspension of such person's privilege to operate a
9 watercraft for a minimum of 2 years. Following this
10 warning, if a person under arrest refuses upon the request
11 of a law enforcement officer to submit to a test designated
12 by the officer, no test shall be given, but the law
13 enforcement officer shall file with the clerk of the
14 circuit court for the county in which the arrest was made,
15 and with the Department of Natural Resources, a sworn
16 statement naming the person refusing to take and complete
17 the chemical test or tests requested under the provisions
18 of this Section. Such sworn statement shall identify the
19 arrested person, such person's current residence address
20 and shall specify that a refusal by such person to take the
21 chemical test or tests was made. Such sworn statement shall
22 include a statement that the arresting officer had
23 reasonable cause to believe the person was operating or was
24 in actual physical control of the watercraft within this
25 State while under the influence of alcohol, other drug or
26 drugs, intoxicating compound or compounds, or combination

1 thereof and that such chemical test or tests were made as
2 an incident to and following the lawful arrest for an
3 offense as defined in this Section or a similar provision
4 of a local ordinance, and that the person after being
5 arrested for an offense arising out of acts alleged to have
6 been committed while so operating a watercraft refused to
7 submit to and complete a chemical test or tests as
8 requested by the law enforcement officer.

9 3.1. The law enforcement officer submitting the sworn
10 statement as provided in paragraph 3 of this subsection (B)
11 shall serve immediate written notice upon the person
12 refusing the chemical test or tests that the person's
13 privilege to operate a watercraft within this State will be
14 suspended for a period of 2 years unless, within 28 days
15 from the date of the notice, the person requests in writing
16 a hearing on the suspension.

17 If the person desires a hearing, such person shall file
18 a complaint in the circuit court for and in the county in
19 which such person was arrested for such hearing. Such
20 hearing shall proceed in the court in the same manner as
21 other civil proceedings, shall cover only the issues of
22 whether the person was placed under arrest for an offense
23 as defined in this Section or a similar provision of a
24 local ordinance as evidenced by the issuance of a uniform
25 citation; whether the arresting officer had reasonable
26 grounds to believe that such person was operating a

1 watercraft while under the influence of alcohol, other drug
2 or drugs, intoxicating compound or compounds, or
3 combination thereof; and whether such person refused to
4 submit and complete the chemical test or tests upon the
5 request of the law enforcement officer. Whether the person
6 was informed that such person's privilege to operate a
7 watercraft would be suspended if such person refused to
8 submit to the chemical test or tests shall not be an issue.

9 If the person fails to request in writing a hearing
10 within 28 days from the date of notice, or if a hearing is
11 held and the court finds against the person on the issues
12 before the court, the clerk shall immediately notify the
13 Department of Natural Resources, and the Department shall
14 suspend the watercraft operation privileges of the person
15 for at least 2 years.

16 3.2. If the person submits to a test that discloses an
17 alcohol concentration of 0.08 or more, or any amount of a
18 drug, substance or intoxicating compound in the person's
19 breath, blood, or urine resulting from the unlawful use of
20 cannabis listed in the Cannabis Control Act, a controlled
21 substance listed in the Illinois Controlled Substances
22 Act, or an intoxicating compound listed in the Use of
23 Intoxicating Compounds Act, the law enforcement officer
24 shall immediately submit a sworn report to the circuit
25 clerk of venue and the Department of Natural Resources,
26 certifying that the test or tests were requested under

1 paragraph 1 of this subsection (B) and the person submitted
2 to testing that disclosed an alcohol concentration of 0.08
3 or more.

4 In cases where the blood alcohol concentration of 0.08
5 or greater or any amount of drug, substance or compound
6 resulting from the unlawful use of cannabis, a controlled
7 substance or an intoxicating compound is established by a
8 subsequent analysis of blood or urine collected at the time
9 of arrest, the arresting officer or arresting agency shall
10 immediately submit a sworn report to the circuit clerk of
11 venue and the Department of Natural Resources upon receipt
12 of the test results.

13 4. A person must submit to each chemical test offered
14 by the law enforcement officer in order to comply with the
15 implied consent provisions of this Section.

16 5. The provisions of Section 11-501.2 of the Illinois
17 Vehicle Code, as amended, concerning the certification and
18 use of chemical tests apply to the use of such tests under
19 this Section.

20 (C) Upon the trial of any civil or criminal action or
21 proceeding arising out of acts alleged to have been committed
22 by any person while operating a watercraft while under the
23 influence of alcohol, the concentration of alcohol in the
24 person's blood or breath at the time alleged as shown by
25 analysis of a person's blood, urine, breath, or other bodily
26 substance shall give rise to the presumptions specified in

1 subdivisions 1, 2, and 3 of subsection (b) of Section 11-501.2
2 of the Illinois Vehicle Code. The foregoing provisions of this
3 subsection (C) shall not be construed as limiting the
4 introduction of any other relevant evidence bearing upon the
5 question whether the person was under the influence of alcohol.

6 (D) If a person under arrest refuses to submit to a
7 chemical test under the provisions of this Section, evidence of
8 refusal shall be admissible in any civil or criminal action or
9 proceeding arising out of acts alleged to have been committed
10 while the person under the influence of alcohol, other drug or
11 drugs, intoxicating compound or compounds, or combination of
12 them was operating a watercraft.

13 (E) The owner of any watercraft or any person given
14 supervisory authority over a watercraft, may not knowingly
15 permit a watercraft to be operated by any person under the
16 influence of alcohol, other drug or drugs, intoxicating
17 compound or compounds, or combination thereof.

18 (F) Whenever any person is convicted or found guilty of a
19 violation of this Section, including any person placed on court
20 supervision, the court shall notify the Office of Law
21 Enforcement of the Department of Natural Resources, to provide
22 the Department with the records essential for the performance
23 of the Department's duties to monitor and enforce any order of
24 suspension or revocation concerning the privilege to operate a
25 watercraft.

26 (G) No person who has been arrested and charged for

1 violating paragraph 1 of subsection (A) of this Section shall
2 operate any watercraft within this State for a period of 24
3 hours after such arrest.

4 (Source: P.A. 94-214, eff. 1-1-06; 95-149, eff. 8-14-07.); and

5 on page 18, line 2, by replacing "watercraft" with "motorboat";
6 and

7 on page 18, line 25, by replacing "watercraft" with
8 "motorboat"; and

9 on page 19, line 17, by replacing "cannabis, as covered by"
10 with "cannabis listed in"; and

11 on page 21, line 14, by deleting "as".