

1 AN ACT concerning boats.

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

4 Section 5. The Boat Registration and Safety Act is
5 amended by changing Section 5-16 as follows:

6 (625 ILCS 45/5-16)

7 Sec. 5-16. Operating a watercraft under the influence of
8 alcohol, other drug, or combination thereof.

9 (A) 1. A person shall not operate any watercraft within
10 this State while:

11 (a) The alcohol concentration in the such person's
12 blood or breath is a concentration at which driving a
13 motor vehicle is prohibited under subdivision (1) of
14 subsection (a) of Section 11-501 of the Illinois Vehicle
15 Code;

16 (b) Under the influence of alcohol;

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

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

23 (e) There is any amount of a drug, substance, or
24 compound in the person's blood or urine resulting from
25 the unlawful use or consumption of cannabis as defined in
26 the Cannabis Control Act or a controlled substance listed
27 in the Illinois Controlled Substances Act.

28 2. The fact that any person charged with violating this
29 Section is or has been legally entitled to use alcohol, or
30 other drugs, or any combination of both, shall not constitute
31 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 otherwise
3 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; or

8 (b) The offense results in personal injury where a
9 person other than the operator suffers great bodily harm
10 or permanent disability or disfigurement.

11 5. Every person convicted of violating this Section
12 shall be guilty of a Class 3 felony if the offense results in
13 the death of a person.

14 6. (a) In addition to any criminal penalties imposed,
15 the Department of Natural Resources shall suspend the
16 watercraft operation privileges of any person convicted of a
17 misdemeanor under this Section for a period of one year.

18 (b) In addition to any criminal penalties imposed, the
19 Department of Natural Resources shall suspend the watercraft
20 operation privileges of any person convicted of a felony
21 under this Section for a period of 3 years.

22 (B) 1. Any person who operates any watercraft upon the
23 waters of this State shall be deemed to have given consent to
24 a chemical test or tests of blood, breath or urine for the
25 purpose of determining the alcohol, other drug, or
26 combination thereof content of such person's blood if
27 arrested for any offense of subsection (A) above. The test or
28 tests shall be administered at the direction of the arresting
29 officer.

30 2. Any person who is dead, unconscious or who is
31 otherwise in a condition rendering such person incapable of
32 refusal, shall be deemed not to have withdrawn the consent
33 provided above.

34 3. A person requested to submit to a test as provided

1 above shall be verbally advised by the law enforcement
2 officer requesting the test that a refusal to submit to the
3 test will result in suspension of such person's privilege to
4 operate a watercraft. Following this warning, if a person
5 under arrest refuses upon the request of a law enforcement
6 officer to submit to a test designated by the officer, none
7 shall be given, but the law enforcement officer shall file
8 with the clerk of the circuit court for the county in which
9 the arrest was made, a sworn statement naming the person
10 refusing to take and complete the test or tests requested
11 under the provisions of this Section. Such sworn statement
12 shall identify the arrested person, such person's current
13 residence address and shall specify that a refusal by such
14 person to take the test or tests was made. Such sworn
15 statement shall include a statement that the arresting
16 officer had reasonable cause to believe the person was
17 operating the watercraft within this State while under the
18 influence of alcohol, other drug, or combination thereof and
19 that such test or tests were made as an incident to and
20 following the lawful arrest for an offense as defined in this
21 Section or a similar provision of a local ordinance, and that
22 the person after being arrested for an offense arising out of
23 acts alleged to have been committed while so operating a
24 watercraft refused to submit to and complete a test or tests
25 as requested by the law enforcement officer.

26 The clerk shall thereupon notify such person in writing
27 that the person's privilege to operate a watercraft will be
28 suspended unless, within 28 days from the date of mailing of
29 the notice, such person shall request in writing a hearing
30 thereon; if the person desires a hearing, such person shall
31 file a complaint in the circuit court for and in the county
32 in which such person was arrested for such hearing. Such
33 hearing shall proceed in the court in the same manner as
34 other civil proceedings, shall cover only the issues of

1 whether the person was placed under arrest for an offense as
2 defined in this Section or a similar provision of a local
3 ordinance as evidenced by the issuance of a uniform citation;
4 whether the arresting officer had reasonable grounds to
5 believe that such person was operating a watercraft while
6 under the influence of alcohol, other drug, or combination
7 thereof; and whether such person refused to submit and
8 complete the test or tests upon the request of the law
9 enforcement officer. Whether the person was informed that
10 such person's privilege to operate a watercraft would be
11 suspended if such person refused to submit to the test or
12 tests shall not be an issue.

13 If the court finds against the person on the issues
14 before the court, the clerk shall immediately notify the
15 Department of Natural Resources of the court's decision, and
16 the Department shall suspend the watercraft operation
17 privileges of the person for at least 2 years.

18 4. A person must submit to each test offered by the law
19 enforcement officer in order to comply with the implied
20 consent provisions of this Section.

21 5. The provisions of Section 11-501.2 of the Illinois
22 Vehicle Code, as amended, concerning the certification and
23 use of chemical tests apply to the use of such tests under
24 this Section.

25 (C) Upon the trial of any civil or criminal action or
26 proceeding arising out of acts alleged to have been committed
27 by any person while operating a watercraft while under the
28 influence of alcohol, the concentration of alcohol in the
29 person's blood or breath at the time alleged as shown by
30 analysis of a person's blood, urine, breath, or other bodily
31 substance shall give rise to the presumptions specified in
32 subdivisions 1, 2, and 3 of subsection (b) of Section
33 11-501.2 of the Illinois Vehicle Code. The foregoing
34 provisions of this subsection (C) shall not be construed as

1 limiting the introduction of any other relevant evidence
2 bearing upon the question whether the person was under the
3 influence of alcohol.

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

11 (E) The owner of any watercraft or any person given
12 supervisory authority over a watercraft, may not knowingly
13 permit a watercraft to be operated by any person under the
14 influence of alcohol, other drug, or combination thereof.

15 (F) Whenever any person is convicted of a violation of
16 this Section, the court shall notify the Division of Law
17 Enforcement of the Department of Natural Resources, to
18 provide the Department with the records essential for the
19 performance of the Department's duties to monitor and enforce
20 any order of suspension or revocation concerning the
21 privilege to operate a watercraft.

22 (G) No person who has been arrested and charged for
23 violating paragraph 1 of subsection (A) of this Section shall
24 operate any watercraft within this State for a period of 6
25 hours after such arrest.

26 (Source: P.A. 89-445, eff. 2-7-96; 90-215, eff. 1-1-98;
27 90-655, eff. 7-30-98.)