



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### HB1011

by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

625 ILCS 45/5-4	from Ch. 95 1/2, par. 315-4
625 ILCS 45/5-22	
625 ILCS 45/11A-2	from Ch. 95 1/2, par. 321A-2
625 ILCS 45/11A-3	from Ch. 95 1/2, par. 321A-3
625 ILCS 45/11A-4	from Ch. 95 1/2, par. 321A-4

Amends the Boat Registration and Safety Act. Provides that water skiers, tubers, parasailers, or other persons towed by the motorboat shall be considered part of the total number of passengers and cargo allowed by a watercraft's capacity plate for the purpose of determining a motorboat's carrying capacity. Provides that a person that falsely alters a water usage stamp, falsifies a record under this Act, or counterfeits any license under this Act is guilty of a Class A misdemeanor. Provides that a violation of certain provisions concerning boat rental service providers is a Class B misdemeanor. Provides that a person who is convicted or found guilty (instead of "convicted") of a violation of certain Sections of the Act shall have his or her privilege of operating a watercraft on State waterways suspended by the Department of Natural Resources for a period of not less than one year. To the list of offenses subject to the one-year suspension, adds violations of the Sections concerning resistance to officers, falsifying documents, and felony titling offenses. To the definition of "authorized emergency watercraft", adds vehicles equipped with alternately flashing blue lights. Effective immediately.

LRB098 06017 MLW 36056 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 Boat Registration and Safety Act is amended  
5 by changing Sections 5-4, 5-22, 11A-2, 11A-3, and 11A-4 as  
6 follows:

7 (625 ILCS 45/5-4) (from Ch. 95 1/2, par. 315-4)

8 Sec. 5-4. Overloading. A. No motorboat may be loaded with  
9 passengers or cargo beyond its safe carrying capacity taking  
10 into consideration weather and other existing operating  
11 conditions. Water skiers, tubers, parasailers, or other  
12 persons towed by the motorboat shall be considered part of the  
13 total number of passengers and cargo allowed by a watercraft's  
14 capacity plate for the purpose of determining a motorboat's  
15 carrying capacity.

16 B. Capacity plates. (1) Every vessel less than 26 feet in  
17 length, designed to carry 2 or more persons and to be propelled  
18 by machinery as its principal source of power or designed to be  
19 propelled by oars shall, if manufactured or offered for sale in  
20 this State, have affixed permanently thereto by the  
21 manufacturer a capacity plate as required by this Section. As  
22 used in this Section, "manufacture" means to construct or  
23 assemble a vessel or alter a vessel in such manner as to change

1 its weight capacity.

2 (2) A capacity plate shall bear the following information  
3 permanently marked thereon in such manner as to be clearly  
4 visible and legible from the position designed or normally  
5 intended to be occupied by the operator of the vessel when  
6 under way:

7 a. For all vessels designed for or represented by the  
8 manufacturer as being suitable for use with outboard motor:

9 1. The total weight of persons, motor, gear and other  
10 articles placed aboard which the vessel is capable of carrying  
11 with safety under normal conditions.

12 2. The recommended number of persons commensurate with the  
13 weight capacity of the vessel and the presumed weight in pounds  
14 of each such person. In no instance may such presumed weight  
15 per person be less than 150 pounds.

16 3. Clear notice that the information appearing on the  
17 capacity plate is applicable under normal conditions and that  
18 the weight of the outboard motor and associated equipment is  
19 considered to be part of total weight capacity.

20 4. The maximum horsepower of the motor the vessel is  
21 designed or intended to accommodate.

22 b. For all other vessels to which this Section applies:

23 1. The total weight of persons, gear and other articles  
24 placed aboard which the vessel is capable of carrying with  
25 safety under normal conditions.

26 2. The recommended number of persons commensurate with the

1 weight capacity of the vessel and the presumed weight in pounds  
2 of each such person. In no instance shall such presumed weight  
3 per person be less than 150 pounds.

4 3. Clear notice that the information appearing on the  
5 capacity plate is applicable under normal conditions.

6 (3) The information relating to maximum capacity required  
7 to appear on capacity plates by Subsection B (2) of this  
8 Section shall be determined in accordance with such methods and  
9 formulas as shall be prescribed by rule or regulation adopted  
10 by the Department. In prescribing such methods and formulas,  
11 the Department shall be guided by and give due regard to the  
12 necessity for uniformity in methods and formulas lawful for use  
13 in determining small vessel capacity in the several states and  
14 to any methods and formulas which may be recognized or  
15 recommended by the United States Coast Guard or any agency  
16 successor thereto.

17 (4) Any vessel to which this Section applies, not having a  
18 capacity plate meeting the requirements of law affixed thereto  
19 by the manufacturer thereof, may have such affixed by any other  
20 person in accordance with such rules and regulations as the  
21 Department may prescribe and may thereafter be offered for sale  
22 in this State, but no action taken pursuant to this Section or  
23 in the manner described herein, shall relieve any manufacturer  
24 from liability for failure to comply with the requirements of  
25 this Section.

26 (5) The information appearing on a capacity plate shall be

1 deemed to warrant that the manufacturer, or the person affixing  
2 the capacity plate is permitted by Subsection B (4) of this  
3 Section, as the case may be, has correctly and faithfully  
4 employed a method and formula for the calculation of maximum  
5 weight capacity prescribed by the Department and that the  
6 information appearing on the capacity plate with respect to  
7 maximum weight capacity and recommended number of persons is  
8 the result of the application of such method and formula, and  
9 with respect to information concerning horsepower limitations,  
10 that such information is not a deliberate or negligent  
11 misrepresentation.

12 (6) If any vessel required by this Section to have a  
13 capacity plate affixed thereto is of such design or  
14 construction as to make it impracticable or undesirable to  
15 affix such plate, the manufacturer, or other person having the  
16 responsibility for affixing the plate, may represent such  
17 impracticability or undesirability to the Department in  
18 writing. Upon determination by the Department that such  
19 representation has merit and that a proper and effective  
20 substitute for the capacity plate which will serve the same  
21 purpose is feasible, the Department may authorize such  
22 alternative compliance and such alternative compliance shall  
23 thereafter be deemed compliance with the capacity plate  
24 requirements of this Section.

25 (7) The Department may by rules or regulations exempt from  
26 the requirements of this Section vessels which it finds to be

1 of such unconventional design or construction that the  
2 information required on capacity plates would not assist in  
3 promoting safety or is not reasonably obtainable.

4 (8) The Department is authorized to issue and amend rules  
5 and regulations to carry out the purposes of this Section.

6 Failure to affix a proper capacity plate shall constitute a  
7 separate violation of this subsection B for each vessel with  
8 respect to which such failure occurs.

9 (Source: P.A. 82-783.)

10 (625 ILCS 45/5-22)

11 Sec. 5-22. Operation of watercraft upon the approach of an  
12 authorized emergency watercraft.

13 (a) As used in this Section, "authorized emergency  
14 watercraft" includes any watercraft operated by the Illinois  
15 Department of Natural Resources Police, the Illinois  
16 Department of State Police, a county sheriff, a local law  
17 enforcement agency, a fire department, a provider of emergency  
18 medical services, or the United States Coast Guard, equipped  
19 with alternately flashing red, blue, red and white, red and  
20 blue, or red in combination with white or blue lights, while  
21 engaged in official duties. Any authorized emergency  
22 watercraft must be clearly emblazoned with markings  
23 identifying it as a watercraft operated by the qualifying  
24 agency.

25 (b) Upon the immediate approach of an authorized emergency

1 watercraft making use of rotating or flashing visual signals  
2 and lawfully making use of a visual signal, the operator of  
3 every other watercraft shall yield the right-of-way and shall  
4 immediately reduce the speed of the watercraft, so as not to  
5 create a wake, and shall yield way to the emergency watercraft,  
6 moving to the right to permit the safe passage of the emergency  
7 watercraft, and shall stop and remain in that position until  
8 the authorized emergency watercraft has passed, unless  
9 otherwise directed by a police officer.

10 (c) Upon approaching a stationary authorized emergency  
11 watercraft, when the authorized emergency watercraft is giving  
12 a signal by displaying rotating or alternately flashing red,  
13 blue, red and white, red and blue, or red in combination with  
14 white or blue lights, a person operating an approaching  
15 watercraft shall proceed with due caution at no-wake speed and  
16 yield the right-of-way by moving safely away from that  
17 authorized emergency watercraft, proceeding with due caution  
18 at a no-wake speed with due regard to safety and water  
19 conditions, maintaining no-wake speed until sufficiently away  
20 from the emergency watercraft so as not to create a wake that  
21 would otherwise rock or otherwise disturb the authorized  
22 emergency watercraft.

23 (d) This Section shall not operate to relieve the operator  
24 of an authorized emergency watercraft from the duty to operate  
25 that watercraft with due regard for the safety of all persons  
26 using the waterway.

1 (e) A person who violates this Section commits a business  
2 offense punishable by a fine of not less than \$100 or more than  
3 \$10,000. It is a factor in aggravation if the person committed  
4 the offense while in violation of Section 5-16 of this Act.

5 (f) If a violation of this Section results in damage to the  
6 property of another person, in addition to any other penalty  
7 imposed, the person's watercraft operating privileges shall be  
8 suspended for a fixed period of not less than 90 days and not  
9 more than one year.

10 (g) If a violation of this Section results in injury to  
11 another person, in addition to any other penalty imposed, the  
12 person's watercraft operating privileges shall be suspended  
13 for a fixed period of not less than 180 days and not more than 2  
14 years.

15 (h) If a violation of subsection (c) of this Section  
16 results in great bodily harm or permanent disability or  
17 disfigurement to, or the death of, another person, in addition  
18 to any other penalty imposed, the person's watercraft operating  
19 privileges shall be suspended for 2 years.

20 (i) The Department of Natural Resources shall, upon  
21 receiving a record of a judgment entered against a person under  
22 this Section:

23 (1) suspend the person's watercraft operating  
24 privileges for the mandatory period; or

25 (2) extend the period of an existing suspension by the  
26 appropriate mandatory period.



1 (Source: P.A. 95-107, eff. 1-1-08.)

2 (625 ILCS 45/11A-2) (from Ch. 95 1/2, par. 321A-2)

3 Sec. 11A-2. A. Any person who violates Section 3-11, 3A-3,  
4 3A-13, 3A-14, or 3A-20 is guilty of a Class A misdemeanor.

5 B. Any person who violates Section 3A-21 is guilty of a  
6 Class 2 felony.

7 (Source: P.A. 88-524.)

8 (625 ILCS 45/11A-3) (from Ch. 95 1/2, par. 321A-3)

9 Sec. 11A-3. Any person who violates any of the provisions  
10 of Section 5-1, 7-1, 7-2, 7-7, 7-8, or 7-9 of this Act is  
11 guilty of a Class B misdemeanor.

12 Any person who violates Section 5-2 of this Act is guilty  
13 of a Class A misdemeanor, except that aggravated reckless  
14 operation of a watercraft is a Class 4 felony.

15 (Source: P.A. 93-782, eff. 1-1-05.)

16 (625 ILCS 45/11A-4) (from Ch. 95 1/2, par. 321A-4)

17 Sec. 11A-4. Any person who is convicted of a violation of  
18 Sections 5-1 or 11A-5 of this Act, in addition to any other  
19 penalties authorized in this Act, may in the discretion of the  
20 court be refused the privilege of operating any watercraft on  
21 any of the waterways of this State for a period of not less  
22 than one year.

23 Any person who is convicted or found guilty of a violation

1 of Section 2-4, 3-11, 3A-21, or 5-2 of this Act or subsection  
2 A-1 of Section 6-1 of this Act, in addition to any other  
3 penalties authorized in this Act, shall have his or her  
4 privilege of operating any watercraft on any of the waterways  
5 of this State suspended by the Department for a period of not  
6 less than one year.

7 (Source: P.A. 93-782, eff. 1-1-05.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.