



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4708

Introduced 2/6/2024, by Rep. Janet Yang Rohr

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 public uses in such waters shall include boating, tubing, fishing, swimming, and wading. Requires the Department of Natural Resources to protect such public uses against interference or encroachment as provided in the Act. 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, a violation of which 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.

LRB103 37027 MXP 67142 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 any substantial part of the year,
11 or that is actually so used, shall be deemed navigable under
12 such laws for purposes of public access and use, unless the
13 contrary is proven in litigation by a preponderance of the
14 evidence. Public uses in such waters shall include boating,
15 tubing, fishing, swimming, and wading. The Department of
16 Natural Resources shall protect such public uses against
17 interference or encroachment as hereinafter provided in this
18 Act. No action or inaction by the Department of Natural
19 Resources shall create a presumption, in any civil or criminal
20 litigation, against the navigability of any waterway segment.

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

26 (1) no person shall interfere with or obstruct public

1 access to and use of navigable waters for any lawful
2 purpose;

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

9 (3) any person lawfully using navigable waters shall
10 refrain from littering or otherwise creating a public or
11 private nuisance; and

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

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

24 (d) Nothing in this Section shall be construed to alter
25 the permit requirements and programs set forth in this Act or
26 to expand the responsibilities of the Department of Natural

1 Resources under Sections 11, 22, and 23b of this Act

2 (615 ILCS 5/25) (from Ch. 19, par. 72)

3 Sec. 25. The Attorney General, any State's Attorney of any
4 county or any attorney authorized by the Department of Natural
5 Resources shall have the power to represent said Department,
6 and in the name of the State of Illinois, invoke for the
7 purposes specified in this act, all of the power of the State
8 to prevent the wrongs and injuries herein referred to, and for
9 that purpose, such Attorney General, State's attorney or
10 authorized attorney shall be deemed to be the proper
11 representative of the State, with full power and authority
12 upon its behalf to prosecute all necessary suits or actions.

13 Nothing in this Act shall limit the right of any person to
14 challenge the legality of alleged interference with the public
15 right to access or use navigable waters in any appropriate
16 civil or criminal litigation.

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