

LEGISLATIVE GUIDE TO STATE REGULATION OF WATERCRAFT AND WATER NAVIGATION



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I. Introduction.

This Legislative Guide provides an overview of watercraft and water navigation regulations in Iowa. The Guide discusses licenses and permits required to operate vessels on public waters and ice, navigation rules, operational and safety equipment requirements, registrations, titles, accident reports, prohibitions, penalties, and fees. Iowa Code references are to the 2005 edition of the Iowa Code and the 2005 Iowa Code Supplement.

II. Administration and Enforcement – Jurisdiction.

The Department of Natural Resources is an executive agency charged with the responsibility for administering and enforcing the water navigation laws of the state. The Natural Resource Commission consists of seven members appointed by the Governor and has the authority to make rules and oversee the enforcement of the water navigation laws pursuant to chapter 462A of the Code of Iowa.

The jurisdiction of the Department of Natural Resources and the Natural Resource Commission relating to the public waters of this state includes the preservation of each body of water, its bed, waters, ice, and banks within the territorial limits of the state and the marginal river areas adjacent to the state, such as the Big Sioux River, the Missouri River, and the Mississippi River; the regulation of the waters' various uses; and the use, operation, and equipment of vessels and vehicles in or on the waters. This jurisdiction does not extend to farm ponds and privately owned lakes.¹

III. Public Use of Waters – Underlying Land – Ice.

Water occurring in a river, stream, or creek with visible evidence of the flow of water is public water of the state and is subject to use by the public for navigation purposes.

Land underlying the flowing surface water is held subject to a trust for the public use of the water flowing over it. The use of the water is subject to the same rights, duties, limitations, and regulations that apply to a meandered stream or other stream deemed navigable for commercial purposes and to reasonable use by the owner of the land lying under and next to the flowing surface water.²

There are also laws and regulations which apply when public waters are frozen. Except for motor vehicles licensed under Iowa Code chapter 321 for public highway use or snowmobiles licensed under Iowa Code chapter 321G, a vehicle is not authorized to operate on a public ice surface without a permit from the department. All vehicles used on ice must be operated in a reasonable and prudent manner and, except for special events or races, operated at no more than 15 miles per hour.³

A motor vehicle may not be operated in a portion of a meandered stream, any portion of the bed of a nonmeandered stream identified as a navigable stream, or any portion of a stream identified as a trout stream. This prohibition does not apply to the use of ford

¹ Iowa Code §§ 455A.5, 462A.2(42), 462A.3.

² Iowa Code § 462A.69.

³ Iowa Code § 462A.33.



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crossings of public or private roads, ford crossings used for agricultural equipment, the operation of construction equipment in a streambed, or the use of motor vehicles on ice.⁴

IV. Registration and Numbering of Vessels.

Currently, each vessel operated on the public waters of this state (i.e., waters under the jurisdiction of the commission) must be registered every two years with the county recorder in the county where the owner resides or, in the case of a nonresident, in the county where the vessel is principally used. Beginning on January 1, 2007, vessels must be registered only every three years. If the county recorder is not satisfied as to the ownership of the vessel or that there are no undisclosed security interests in the vessel, the county recorder may, as a condition of issuing a registration certificate, require the applicant to file a bond as assurance of ownership.⁵ Vessels which are excluded from registration and numbering requirements or display of the registration and capacity numbers are covered later in this Guide.

The county recorder issues a pocket-size registration certificate for each vessel. The certificate includes the registration number for the vessel and the passenger capacity. The registration certificate is to be carried in the vessel or on the person of the vessel operator. An exemption is provided for a vessel which is a nonpowered sailboat, nonpowered canoe, or commercial vessel. The registration for these nonpowered vessels or commercial vessels may be kept on shore.

On all vessels except nonpowered sailboats, the identification number must be painted or otherwise displayed on each side of the vessel's bow. On nonpowered vessels, the number may be placed at alternate locations determined by the commission. The passenger capacity of a vessel must also be prominently displayed at a location other than the bow. The identification numbering system is to conform with the federal numbering system.⁶

Violations of registration and identification provisions are punishable by a scheduled fine of \$10.⁷

V. Registration Fees.

Currently, vessel registration fees are for two years and are based on the length of a vessel as follows:⁸

• Any length without motor or sail	\$ 5.00
• Motorboats and sailboats less than 12 feet	8.00
• Motorboats and sailboats 12 feet or more but less than 15 feet	10.00
• Motorboats and sailboats 15 feet or more but less than 18 feet	12.00
• Motorboats and sailboats 18 feet or more but less than 25 feet	18.00
• Motorboats and sailboats 25 feet or more.....	28.00

⁴ Iowa Code § 462A.34A. Also see Iowa Code § 462A.69. Certain navigable streams have been designated as meandered streams and the state has jurisdiction of the surface waters and streambeds.

⁵ Iowa Code Supplement § 462A.5; Iowa Code § 462A.5A.

⁶ Iowa Code Supplement § 462A.5(1), (2).

⁷ Iowa Code § 805.8B(1)(a).

⁸ Iowa Code § 462A.5(3).

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After January 1, 2007, vessel registration fees are for three years for the registration period beginning May 1, 2007, for unregistered vessels and registration renewals and are based on the length of a vessel as follows:⁹

• Any length without motor or sail	\$ 12.00
• Motorboats and sailboats less than 16 feet	22.50
• Motorboats and sailboats 16 feet or more but less than 26 feet	36.00
• Motorboats and sailboats 26 feet or more but less than 40 feet	75.00
• Motorboats or sailboats 40 feet or more	150.00
• All personal watercraft	45.00

When unregistered vessels are registered after May 1 of the three-year registration period, the registration fee is reduced to 66 percent or 33 percent, respectively, of the appropriate registration fee. A delinquency fee of \$5 is charged for renewal of a registration after April 30 of the last calendar year of the registration period.¹⁰

In addition to the registration fee, a writing fee of \$1.25 is payable to the county recorder when the registration is issued. If a new registration or a duplicate registration is requested by an owner, a fee of \$1 plus the writing fee of \$1.25 is charged. A change in the name or address of the owner may be made without additional cost.¹¹

VI. Federal Marine Document – Fees.

A vessel which has a valid marine document issued by the federal Bureau of Customs must be registered every three years after January 1, 2007, for the registration period beginning May 1 of that year with the county recorder. Currently, the registration must be made every two years. If the vessel bears the identification required in the documentation, the state documentation number is not required to be displayed on the vessel. The fee for registration is \$25 plus the writing fee of \$1.25.¹²

VII. Exemption – Registration and Capacity Numbers.

A. Exemption From Registration.

The following vessels are not required to be registered in this state:¹³

- A vessel registered in another state pursuant to a federally approved numbering system and the vessel has not been within this state for more than 60 days within a calendar year.
- Foreign vessels temporarily using the navigable waters of the United States and of this state.
- A public vessel of the United States, a state, or political subdivision of a state which is used for enforcement, search and rescue, or official research and studies, and is not used for recreational or commercial purposes.

⁹ Iowa Code Supplement § 462A.5(3).

¹⁰ Iowa Code Supplement § 462A.5(3).

¹¹ Iowa Code § 462A.5(4); Iowa Code Supplement § 462A.53.

¹² Iowa Code Supplement § 462A.5(6).

¹³ Iowa Code § 462A.6.



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- A ship's lifeboat.
- A type of vessel which would be exempt from numbering if it were subject to federal law and the numbering or registration will not materially aid in its identification.
- An air mattress, inner tube, or other toy or beach-type item being used in a recognized swimming area. For a lake or reservoir, a beach or swimming area may not extend more than 300 feet from shore.
- Inflatable nonpower or nonsail vessels which are seven feet or less in length, and conventional design canoes and kayak-type vessels which are 13 feet or less in length.

B. Exemption From Display Requirements.

The following vessels are exempt from displaying a registration number and a passenger capacity number:¹⁴

- Authentically constructed Native American-styled craft including birchbark canoes, dugout canoes, competitive racing shells, reed boats, and skin-covered canoes or boats.
- Historically styled craft such as keel boats used only during historic recreations or public demonstrations.
- A vessel which has a valid marine document issued by the United States Coast Guard and the vessel bears the identification required in the document.
- A sailboard, except that the registration decal must be attached to the bottom surface of the bow.

VIII. Accident and Collision Reports.

When an accident or collision results in a casualty or property damage of more than \$500, a vessel operator is responsible for submitting a report of the incident to the Natural Resource Commission within five days. Law enforcement officers investigating an accident or casualty must also submit a written report. A report submitted by a vessel operator is for the confidential use of the Department of Natural Resources, but a copy shall be provided to the vessel operator upon request and the identities and addresses of persons involved in an accident shall be disclosed by the department upon request. The written reports of the law enforcement officers submitted to the department are to be kept confidential, but a copy of a completed accident or collision report shall be made available to a party involved in the accident or collision, the party's insurance company, or the party's attorney upon written request and payment of a fee.

Failure to submit a required accident or collision report is punishable as a serious misdemeanor which could mean a fine of at least \$250 but not more than \$1,500, and imprisonment for not more than one year.¹⁵

¹⁴ Iowa Code § 462A.6A.

¹⁵ Iowa Code §§ 462A.7, 903.1(1).

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IX. Classification of Vessels – Required Equipment.

A. Vessel Classes.

There are four classes of vessels in this state with varying equipment requirements. The classes are as follows:¹⁶

- Class I — Vessels less than 16 feet in length.
- Class II — Vessels 16 feet or more but less than 26 feet in length.
- Class III — Vessels 26 feet or more but less than 40 feet in length.
- Class IV — Vessels 40 feet or more in length.

B. Lighting Requirements.

All vessels, from sunset to sunrise, are required to display lights when operating, or, for motorboats, to use the international lighting system approved by the United States Coast Guard. Violations for unused, improper, or defective lighting equipment are punishable by a scheduled fine of \$20.¹⁷

1. For Class I and II Motorboats:

- a. A bright white light aft to show all around the horizon.
- b. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard (right side of the vessel) and red to port (left side of the vessel), and fixed to throw the light from directly ahead to two points abaft (rearward) the beam on their respective sides.

2. For Class III and IV Motorboats:

- a. A bright white light near the bow to provide an unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the vessel.
- b. A bright white light aft to show all around the horizon and higher than the white light forward.
- c. A green light on the starboard side (right side) constructed to show an unbroken light over an arc of the horizon of 10 degrees of the compass, so fixed as to throw the light from directly ahead to two points abaft (rearward) the beam on the starboard side. A red light on the port side (left side) constructed to show an unbroken light over an arc of the horizon of 10 degrees of the compass, so fixed as to throw the light from directly ahead to two points abaft (rearward) the beam on the port side. The two lights shall be fitted with inboard screens of sufficient height to prevent the lights from being seen across the bow.

3. For Sailboats:

Class I and II vessels, when propelled by sail alone, must show the combined lantern in the fore part of the vessel but not the white light aft. Class III and IV vessels,

¹⁶ Iowa Code § 462A.9(1)

¹⁷ Iowa Code §§ 462A.9(2), 805.8B(1)(b).



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when propelled by sail alone, must show the colored side lights, suitably screened, but not the white lights in the fore and aft of the vessels.

4. Visibility Requirements:

For all vessels required to show lights, white lights must be visible on a dark night with clear atmosphere at a distance of at least two miles and colored lights must be visible at a distance of at least one mile.

C. Whistle and Bell Requirements.

Each motorboat of Class II, III, and IV must have an efficient whistle or other sound-producing appliance and motorboats of Class III and IV must also have an efficient bell.¹⁸ Violations for unused, improper, or defective sound producing equipment are punishable by a scheduled fine of \$20.¹⁹

D. Safety Equipment.

Each vessel must carry one readily accessible life preserver or similar device for each passenger. Exceptions are provided for racing shells while used in the sport of sculling and for sailboards while used for windsurfing.²⁰

Each motorboat must carry an appropriate fire extinguisher capable of extinguishing burning gasoline. However, vessels powered by outboard motors of 10 horsepower or less are exempt from this requirement. Motorboats, except outboard motorboats, shall also be equipped with carburetors with an efficient flame arrestor or backfire trap.²¹ Violations for unused, improper, or defective safety equipment are punishable by a scheduled fine of \$20.²²

E. Exhaust Muffler.

The exhaust of each motorboat must be effectively muffled to limit the total vessel noise to a reasonable level.²³ For motorboat engines manufactured on or after January 1, 1993, total motorboat noise is limited to not more than 88 decibels on the "A" scale when subjected to a stationary sound level test or 75 decibels on the "A" scale when measured by a shoreline sound level test.²⁴ The use of cutouts on mufflers is prohibited except during motorboat races and during trial runs conducted between 8:00 a.m. and 6:00 p.m. during the day preceding the race.²⁵ Violations for unused, improper, or defective muffling devices are punishable by a scheduled fine of \$20.²⁶

¹⁸ Iowa Code § 462A.9(4), (5).

¹⁹ Iowa Code § 805.8B(1)(b).

²⁰ Iowa Code § 462A.9(6).

²¹ Iowa Code § 462A.9(7), (9).

²² Iowa Code § 805.8B(1)(b).

²³ Iowa Code § 462A.11.

²⁴ Iowa Admin. Code 571-43.2.

²⁵ Iowa Code § 462A.11.

²⁶ Iowa Code § 805.8B(1)(b).

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X. Vessels for Hire – Inspections and Operation.

A boat livery must keep a record of the name and address of each person hiring a vessel, the identification number, departure date and time, and the expected time of return. Each rented vessel must be properly equipped for safety and fire protection.²⁷

Each vessel hired or offered for hire upon any waters of this state under the jurisdiction of the Natural Resource Commission may be inspected at any time by representatives of the commission or by any peace officer who is trained in enforcing, and who in the regular course of duty enforces, boating and navigation laws. The purpose of the inspection is to determine the safety and seaworthiness of the vessel, including all machinery, equipment, and appurtenances. A private vessel may also be inspected to determine its seaworthiness.²⁸

The commission is required to revoke the registration certificate of any vessel and the owner's or operator's privilege to operate a vessel for hire or commercial vessel upon receiving a record of such owner's or operator's conviction of any of the following offenses:²⁹

- Manslaughter resulting from the operation of a vessel.
- Operating a motorboat or sailboat while intoxicated or manipulating water skis, a surfboard, or a similar device while intoxicated or under the influence of a narcotic drug.
- Failure to stop and render aid as required by Code chapter 462A when a collision, accident, or other casualty results in death or personal injury.
- Perjury or making of a false affidavit or statement under oath relating to the ownership or operation of a vessel.

The commission may suspend the registration certificate of any vessel and the owner's or operator's privilege to operate a vessel for hire or commercial vessel upon a showing that the owner or operator:³⁰

- Committed an offense for which mandatory revocation of the registration certificate or of the privilege to operate a vessel for hire or commercial vessel is required upon conviction.
- Is a habitual reckless or negligent operator of a vessel for hire or commercial vessel.
- Is incompetent to operate a vessel for hire or commercial vessel.
- Has permitted an unlawful or fraudulent use of the registration certificate.

An owner or operator of a vessel for hire or commercial vessel operated upon the waters of this state under the jurisdiction of the Natural Resource Commission who permits the vessel to be occupied by more passengers and crew than the registration capacity

²⁷ Iowa Code § 462A.10.

²⁸ Iowa Code Supplement § 462A.20.

²⁹ Iowa Code Supplement § 462A.23(2).

³⁰ Iowa Code Supplement § 462A.23(3).



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allows or continues to operate such a vessel after the person's privilege to operate the vessel has been revoked is guilty of a serious misdemeanor.³¹

XI. Vessel Registration Fees – Appropriation of Revenues.

The manufacturer or dealer of a vessel is required to have a special certificate to own, store, repair, alter, or operate a vessel. The fee for the special certificate is \$15 per registration period and an additional \$2 per each duplicate certificate. If a manufacturer or dealer has a place of business in more than one city, a separate certificate is required for each business. The certificate expires at midnight on April 30 of the last calendar year of the registration period.³²

A dealer must annually furnish the department with a list of all used vessels being held for sale or trade and the status of the registration of each vessel being held. A registration must be valid for the current registration period before the registration can be transferred to a new owner.³³

Within 30 days of the purchase or transfer of a vessel, the purchaser must file a new application form with the county recorder with an application fee of \$1 and a writing fee of \$1.25. If there are two or more transactions for the same vessel, the writing fee is \$1.25. The owner of a vessel must show satisfactory evidence that the sales or use tax has been paid before the county recorder issues a registration certificate. If the purchaser is a dealer who holds the vessel for resale, a new registration certificate is not required. Upon purchase of a vessel registered in this state, the dealer shall issue a signed receipt to the previous owner. A copy of the receipt is also mailed to the county recorder of the county in which the vessel is registered and to the commission. Upon sale of a vessel by a manufacturer or dealer, the purchaser may operate the vessel for 35 days under a temporary "registration applied for" certificate.³⁴

Registration fees are transferred monthly by the county recorder to the Department of Natural Resources and credited to the State Fish and Game Protection Fund to be used for enforcement of navigation laws and water safety.³⁵ Any increase in revenues received on or after July 1, 2007, but on or before June 30, 2013, as a result of fee increases enacted in 2005 is to be used for programs to control aquatic invasive species and for enforcement of navigation laws and water safety upon the inland waters of the state.³⁶ Writing fees are paid by the county recorder to the office of the county treasurer and credited to the county general fund.³⁷

XII. Inspection Authority.

An officer of the Natural Resource Commission or any peace officer who is trained in enforcing, and who in the regular course of duty enforces, boating and navigation laws may inspect and board any vessel being launched, operated, or moored on the waters of this

³¹ Iowa Code Supplement § 462A.25; Iowa Code § 903.1(1).

³² Iowa Code §§ 462A.35, 462A.38; Iowa Code Supplement § 462A.39; Iowa Code §§ 462A.40-462A.41.

³³ Iowa Code §§ 462A.42-462A.43.

³⁴ Iowa Code §§ 462A.44-462A.51; Iowa Code Supplement § 462A.53; Iowa Code § 462A.55.

³⁵ Iowa Code Supplement § 462A.52(1).

³⁶ Iowa Code Supplement § 462A.52(2).

³⁷ Iowa Code § 462A.54.

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state to the extent necessary to determine whether the vessel is properly registered, numbered, and equipped. If a deficiency is found, a deficiency order or citation may be issued directing the owner or operator of the vessel to correct the deficiency and provide proof of compliance to the commission within 14 days. If an inspection deficiency order is issued, the affected vessel shall cease operations on public waters until each deficiency cited has been corrected.³⁸

XIII. Certificate of Title – Fees – Security Interest.

The owner of a vessel 17 feet or longer, principally used in this state, and subject to registration and numbering by the department shall apply to the county recorder of the county where the owner resides for a certificate of title. The application shall include the gross price or fair market value of the vessel, information of previous registration or title in another state or foreign country, and other required information, and be signed and sworn to before a notary public.³⁹

The fee for a title, a duplicate, or a corrected title is \$5. In addition, a surcharge of \$5 is also required. The first \$5 fee is credited to the county general fund to be used for expenses of the county conservation board. The surcharge fee is credited to the State General Fund.⁴⁰

A fee is not required if the ownership of a vessel is transferred by operation of law (i.e., inheritance, bankruptcy, replevin, or execution sale), or the title is canceled by delivery of the title to the county recorder when the vessel is documented by the U. S. Coast Guard. A lienholder who repossesses and holds a vessel for resale must obtain a new title for the vessel and pay the required fee.⁴¹

A security interest in a vessel is not perfected until the security interest is noted on the certificate of title. An application for a security interest must be presented with a fee of \$5 to the county recorder. The fee is credited to the county general fund.⁴²

XIV. Vessel Operations – General Prohibitions.

All of the following are prohibited under Iowa law:⁴³

- Operating a vessel in a reckless, careless, or negligent manner.
- Littering cans, bottles, garbage, or other debris onto or in public waters, ice, or land.
- Using a blue light or flashing blue light on a vessel unless the vessel is an emergency vessel.
- Operating a vessel in an area affected by a national disaster or where a search and rescue operation is being conducted unless authorized to do so by the officer in charge.

³⁸ Iowa Code Supplement § 462A.66; Iowa Code §§ 462A.67-462A.68.

³⁹ Iowa Code Supplement § 462A.77. The certificate of title is required on vessels purchased on or after January 1, 1988. However, the title requirement does not apply to canoes, kayaks, or inflatable vessels regardless of their length or to vessels that are documented by the U.S. Coast Guard.

⁴⁰ Iowa Code § 462A.78.

⁴¹ Iowa Code § 462A.82.

⁴² Iowa Code § 462A.84.

⁴³ Iowa Code Supplement § 462A.12; Iowa Code § 462A.15.



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- Operating a vessel in a manner which unreasonably interferes with the free and proper navigation of the public waters. Anchoring under a bridge, in a heavily traveled channel, in a lock chamber, or near the entrance to a lock may constitute such interference.
- Operating a vessel in violation of restrictions posted on buoys or signs marking an area.
- Operating a vessel equipped with an engine exceeding authorized horsepower for the vessel.
- Leaving an unattended vessel near or blocking a public dock for loading and unloading vessels.
- Operating a vessel within 50 feet of a diver's flag.
- Operating a vessel which is towing a person on water skis, surfboard, or similar device without a responsible person, in addition to the operator, observing the progress of the person being towed.

A violation of any of these provisions is punishable by a scheduled fine of \$25.⁴⁴

XV. Vessel Operation by Minors – Special Restrictions.

When operating a vessel propelled by a motor of more than 10 horsepower, Iowa law specifically prohibits all of the following:⁴⁵

- An owner or operator from allowing any person under 12 years of age to operate the vessel unless accompanied in or on the same vessel by a responsible person at least 18 years of age who is experienced in motorboat operation.
- A person who is 12 years of age or older but less than 18 years of age from operating such a vessel unless the person has successfully completed a watercraft safety course approved by the department and obtained a watercraft safety certificate or is accompanied in or on the same vessel by a responsible person at least 18 years of age who is experienced in motorboat operation.
- A person required to have a watercraft safety certificate from failing to carry the certificate and exhibit it upon the request of an officer of the department. However, a person who is charged with violating this provision but produces a certificate in court, within a reasonable time, cannot be convicted of a violation of this provision.

A violation of any of these provisions is punishable by a scheduled fine of \$25.⁴⁶

XVI. Artificial Lakes – Special Restrictions and Regulations.

A. General Provisions.

A motorboat may not be operated on an artificial lake under the jurisdiction of the department except under the following circumstances:⁴⁷

⁴⁴ Iowa Code § 805.8B(1)(c).

⁴⁵ Iowa Code Supplement § 462A.12(6).

⁴⁶ Iowa Code § 805.8B(1)(c).

⁴⁷ Iowa Code § 462A.31.

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- A motorboat is equipped with one or more outboard battery-operated electric trolling motors.
- A motorboat equipped with any power unit is operated at no-wake speed on an artificial lake of more than 100 acres.
- A privately owned vessel is moored only at locations designated by the department.
- A privately owned vessel is seaworthy for the waters on which the vessel is kept and used. Vessels must be removed from public artificial lakes not later than December 15 of each year.
- An artificial lake is constructed by a political subdivision of the state and the political subdivision has requested the commission to adopt special rules for operation of watercraft on the new artificial lake.
- A county conservation board has adopted special horsepower and speed regulations for artificial lakes under its jurisdiction. This authority does not extend to state artificial lakes managed by county conservation boards.

B. No-Wake Lakes.

The following are the artificial lakes over 100 acres under the custody of the commission where any size motor, no-wake speed applies:⁴⁸

- Ahquabi, Warren County
- Anita, Cass County
- Badger Creek, Madison County
- Big Creek, Polk County
- Brushy Creek, Webster County
- Darling, Washington County
- Geode, Henry County
- Green Valley, Union County
- Hawthorn, Mahaska County
- Icaria, Adams County
- Little River, Decatur County
- Miami, Monroe County
- Pleasant Creek, Linn County
- Prairie Rose, Shelby County
- Rock Creek, Jasper County
- Sugema, Van Buren County

⁴⁸ Iowa Code § 462A.31(1)(b); Department of Natural Resources list.



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- Swan, Carroll County
- Three Mile, Union County
- Twelve Mile, Union County
- Union Grove, Tama County
- Viking, Montgomery County
- Volga, Fayette County
- Wapello, Davis County
- West, Clarke County

C. Lake Macbride.

Lake Macbride in Johnson County is not included on the list of any size motor, no-wake speed lakes because the operation of a motorboat on Lake Macbride is specifically limited by statute to a power unit of not more than 10 horsepower, beginning on the Friday before Memorial Day weekend and ending on Labor Day, and a motorboat with a power unit exceeding 10 horsepower may be operated at other times of the year only by rule of the commission.⁴⁹

XVII. Removal of Nonpermanent Structures.

Each structure which is not considered permanent or which is not excepted by the department must be removed from waters, ice, or land under state jurisdiction by December 15 of each year. If a nonconforming structure is not removed, the department may condemn the structure as a public nuisance.⁵⁰

A violation of this provision is punishable by a scheduled fine of \$15.⁵¹

XVIII. Aircraft Restrictions.

An aircraft operated for hire may use the inland lakes for the transportation of persons or property between points that are more than 30 miles apart. This does not restrict the use of the inland lakes for emergency landings, by private aircraft not operated for hire, or for seaplane flight instruction in areas designated by the Iowa Department of Transportation.⁵²

XIX. Rules for Buoys.

A private buoy may be maintained and used in the public waters as authorized by the commission. A private vessel may be moored at a waterway marker or public buoy only in an emergency. Only obstructions approved by the commission may be kept in public waters under the jurisdiction of the commission.⁵³

⁴⁹ Iowa Code § 462A.31(1)(b).

⁵⁰ Iowa Code §§ 462A.27, 483A.32-483A.34.

⁵¹ Iowa Code § 805.8B(1)(d).

⁵² Iowa Code § 462A.30.

⁵³ Iowa Code § 462A.32.

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A vessel anchored away from shore and left unattended must be moored to a legal buoy.⁵⁴

A violation of any of these provisions is punishable by a scheduled fine of \$15.⁵⁵

XX. Misdemeanor Penalties – Local Ordinances.

Many violations of water navigation laws and rules adopted by the Natural Resource Commission are punishable by scheduled fines in varying amounts. Violations of water navigation laws and rules are punishable as simple misdemeanors if another penalty is not specifically provided.⁵⁶ A simple misdemeanor is punishable by a fine of at least \$50 but not more than \$500 or imprisonment for not more than 30 days.⁵⁷ Juvenile offenders will be prosecuted as adults for violations which are punishable as simple misdemeanors.⁵⁸

Illegal operation of a commercial vessel without a permit or license or with more passengers than is authorized is a serious misdemeanor.⁵⁹ A serious misdemeanor is punishable by a fine of at least \$250 but not more than \$1,500, and the court may also order imprisonment for not more than one year.⁶⁰

Local ordinances governing the operation, equipment, numbering, and related matters affecting watercraft may be enforced if the ordinances are not inconsistent with state law and rules of the commission.⁶¹

If special conditions exist, a political subdivision may request that the commission adopt special rules for a particular body of water. Public notice, published by the political subdivision, must specify the reasons for the request for special rules before the commission takes action on the request.⁶²

XXI. Motorboat or Sailboat Operation While Intoxicated.

A. Prohibitions – Operating While Intoxicated.

A person commits the public offense of operating a motorboat or sailboat while intoxicated if the person operates a motorboat or sailboat on the navigable waters of this state⁶³ in any of the following conditions:⁶⁴

- While under the influence of an alcoholic beverage⁶⁵ or other drug or a combination of those substances.
- While having a blood alcohol concentration⁶⁶ of .10 or more.

⁵⁴ Iowa Code § 462A.32(4).

⁵⁵ Iowa Code § 805.8B(1)(d).

⁵⁶ Iowa Code § 462A.13.

⁵⁷ Iowa Code § 903.1.

⁵⁸ Iowa Code § 462A.13.

⁵⁹ Iowa Code Supplement § 462A.25.

⁶⁰ Iowa Code § 903.1.

⁶¹ Iowa Code § 462A.17(1).

⁶² Iowa Code § 462A.17(2), (3).

⁶³ Iowa Code § 462A.2(20), (42).

⁶⁴ Iowa Code § 462A.14.

⁶⁵ Iowa Code § 462A.2(2).

⁶⁶ Iowa Code § 462A.2(1).



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- While any amount of a controlled substance⁶⁷ is present in the person, as measured in the person's blood or urine.

B. Penalties for Operating a Motorboat or Sailboat While Intoxicated.

1. First Offense.

For a first offense, a person commits a serious misdemeanor which is punishable by all of the following:⁶⁸

- Imprisonment in the county jail for not less than 48 hours less credit for any time the person was confined in a detention facility following arrest.
- Assessment of a fine of \$1,000. However, if no personal injury or property damage has occurred, up to \$500 may be waived by the court. The court may also order the person to perform unpaid community service in lieu of payment of all or a portion of the fine.
- Prohibition of operation of a motorboat or sailboat for one year pursuant to a court order.
- Assignment to substance abuse evaluation and treatment and a course for drinking drivers.

2. Second Offense.

For a second offense, a person commits an aggravated misdemeanor which is punishable by all of the following:⁶⁹

- Imprisonment in the county jail or a community-based correctional facility for not less than seven days.
- Assessment of a fine of not less than \$1,500 nor more than \$5,000.
- Prohibition of operation of a motorboat or sailboat for two years pursuant to a court order.
- Assignment to substance abuse evaluation and treatment and a course for drinking drivers.

3. Third or Subsequent Offense.

For a third or subsequent offense, a person commits a Class "D" felony which is punishable by all of the following:⁷⁰

- Imprisonment in the county jail for a determinate sentence of not more than one year but not less than 30 days, or commitment to the custody of the Director of the Department of Corrections. The offender may be committed to a continuum of programming for the supervision and treatment of OWI violators by the Director of

⁶⁷ Iowa Code § 462A.2(8).

⁶⁸ Iowa Code § 462A.14(2)(a).

⁶⁹ Iowa Code § 462A.14(2)(b).

⁷⁰ Iowa Code § 462A.14(2)(c).

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the Department of Corrections or to the judicial district department of correctional services for an unpaid community service program.

- Assessment of a fine of not less than \$2,500 nor more than \$7,500.
- Prohibition of operation of a motorboat or sailboat for six years pursuant to a court order.
- Assignment to substance abuse evaluation and treatment and a course for drinking drivers.

C. Minimum Terms of Imprisonment.

A minimum term of imprisonment in a county jail or a community-based correctional facility imposed for a second or subsequent offense shall be served on consecutive days. However, if the court finds that service of the full minimum term on consecutive days would work undue hardship on the defendant or that there is insufficient jail space and sufficient jail space is not expected within four months after sentencing the defendant, the court may order the defendant to serve the minimum term in segments of at least 48 hours and to perform a specified number of hours of unpaid community service.⁷¹

D. Determination of Second or Subsequent Offense.

In determining if a violation charged is a second or subsequent offense for purposes of sentencing or license revocation, the following factors shall apply:⁷²

- Any conviction for operating a motorboat or sailboat while intoxicated within the previous 12 years shall be counted as a previous offense.
- Deferred judgments entered pursuant to Iowa Code section 907.3 for violations applicable to operating a motorboat or sailboat while intoxicated shall be counted as a previous offense.
- Convictions or the equivalent of deferred judgments for violations in any other state under statutes substantially corresponding to the operation of a motorboat or sailboat while intoxicated in this state shall be counted as previous offenses. Each previous violation on which conviction or deferral of judgment was entered before the date of violation charged in this state shall be considered and counted as a separate previous offense.

E. Penalties for Operating a Motorboat or Sailboat While Intoxicated Resulting in Serious Injury or Death.

1. Class "D" Felony.

A person commits a Class "D" felony for operating a motorboat or sailboat while intoxicated if the offense results in serious injury to a person other than the defendant and the court determines that the person committing the offense caused the serious injury. The offense is punishable by imprisonment for a determinate sentence of not more than five years but not less than 30 days, or commitment to the custody of the

⁷¹ Iowa Code § 462A.14(3)(b).

⁷² Iowa Code § 462A.14(4).



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Director of the Department of Corrections, and assessment of a fine of not less than \$2,500 nor more than \$7,500. A person committed to the custody of the Director of the Department of Corrections shall be assigned to a facility for treatment of OWI violators.⁷³ The court shall also order the defendant not to operate a motorboat or sailboat for one year in addition to any period of time the defendant would have been ordered not to operate if no serious injury had occurred in connection with this violation. The court shall also assign the defendant to substance abuse evaluation and treatment and a course for drinking drivers.⁷⁴

2. Class "B" Felony.

A person commits a Class "B" felony for operating a motorboat or sailboat while intoxicated if the offense results in the death of a person and the court determines the person committing the offense caused the death.⁷⁵ The offense is punishable by imprisonment for a determinate sentence of not more than 25 years, or commitment to the custody of the Director of the Department of Corrections. A person committed to the custody of the Director of the Department of Corrections shall be assigned to a facility for treatment of OWI violators. The court shall order the defendant not to operate a motorboat or sailboat for six years. The court shall also assign the defendant to substance abuse evaluation and treatment and a course for drinking drivers.

F. Deferred Judgments or Sentences Restricted.

The court shall not defer judgment or sentencing, or suspend execution of any mandatory minimum sentence of incarceration, and shall not suspend execution of any other part of a sentence not involving incarceration applicable to a defendant convicted of operating a motorboat or sailboat while intoxicated if any of the following applies:⁷⁶

- If the defendant's alcohol concentration established by results of an analysis of a specimen of the defendant's blood, breath, or urine lawfully taken exceeds .15.
- If the defendant has previously been convicted of operating a motorboat or sailboat while intoxicated in this state or another state.
- If the defendant has previously received a deferred judgment or sentence for a conviction of operating a motorboat or sailboat while intoxicated in this state or another state.
- If the defendant refused to consent to testing requested by a law enforcement officer relating to operating a motorboat or sailboat while intoxicated.
- If the offense of operating a motorboat or sailboat while intoxicated results in bodily injury to a person other than the defendant.

⁷³ Iowa Code § 904.513.

⁷⁴ Iowa Code § 462A.14(2)(d).

⁷⁵ Iowa Code § 462A.14(2)(e).

⁷⁶ Iowa Code § 462A.14(3)(a).

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G. Prescription Drug Exclusion.

A person shall not be convicted of operating a motorboat or sailboat under the influence of a drug or controlled substance if the substance was prescribed by a medical practitioner or dispensed lawfully by a pharmacist and taken according to directions, if there is no evidence of the consumption of alcohol, and the medical practitioner or pharmacist had not directed the person to refrain from operating a motor vehicle, motorboat, or sailboat. When charged with a violation of operating a motorboat or sailboat under the influence of a drug or controlled substance, a person may assert, as an affirmative defense, that the drug or controlled substance present in the person's blood or urine was prescribed or dispensed for the person and taken in accordance with the directions of a medical practitioner or pharmacist.⁷⁷

H. Victim Restitution.

In addition to any penalty or fine imposed, the court shall order a defendant to make restitution for damages to the victim resulting directly from the violation of operating a motorboat or sailboat while intoxicated pursuant to Iowa Code chapter 910. An amount paid pursuant to a restitution order shall be credited toward any adverse judgment in a subsequent civil proceeding arising from the same occurrence. However, a restitution proceeding shall not be given evidentiary or preclusive effect in a subsequent civil proceeding arising from the same occurrence.

The court may order restitution paid to any public agency for the costs of the emergency response resulting from a violation. The restitution shall not exceed \$500 per public agency for each emergency response.⁷⁸

I. Other Competent Evidence Admissible.

Any other competent evidence bearing on the question of whether a person was under the influence of an alcoholic beverage or a controlled substance or other drug, including the results of chemical tests of specimens of blood, breath, or urine obtained more than two hours after the person was operating a motorboat or sailboat, may be introduced in the court proceedings.⁷⁹

J. Substance Abuse Evaluations.

The substance abuse evaluations required of a convicted defendant shall be completed at the defendant's expense. In addition to the evaluation and treatment required, the court shall order the convicted defendant to follow the recommendations proposed for appropriate treatment. The court-ordered treatment is subject to periodic reporting as provided in Iowa Code section 125.86.

If the defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when the defendant has received maximum benefit from the facility and the defendant shall be released from the facility. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence.

⁷⁷ Iowa Code § 462A.14(7).

⁷⁸ Iowa Code § 462A.14(9).

⁷⁹ Iowa Code § 462A.14(11).



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Upon successful completion of a course for drinking drivers or an ordered substance abuse treatment program, a court may place the defendant on probation for six months and, as a condition of probation, the defendant shall attend a program providing posttreatment services relating to substance abuse.

A defendant committed for treatment who does not possess sufficient income or estate to pay the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in Iowa Code section 125.44.

A defendant who does not carry out the order of the court shall be confined to the county jail for 20 days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service and shall be placed on probation for one year. If this probation is violated, the violation is punishable as contempt of court.

In addition to any other condition of probation, a defendant shall attend a program providing substance abuse prevention services or posttreatment services related to substance abuse. The defendant shall report to the defendant's probation officer as ordered concerning proof of attendance at the assigned program. Failure to attend or complete the assigned program is a violation of probation and is punishable as contempt of court.

After a second or subsequent offense of operating a motorboat or sailboat while intoxicated, the court may commit the defendant for inpatient treatment of alcoholism or drug addiction or dependency to any hospital or facility in this state providing the appropriate treatment. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence. A defendant committed for a second or subsequent offense who does not possess sufficient income or estate to pay for the treatment in whole or in part shall be considered a state patient and the treatment costs shall be paid as provided in Iowa Code section 125.44.⁸⁰

XXII. Implied Consent to Test for Intoxication – Procedures.

A. Implied Consent to Test.

A person who operates a motorboat or sailboat on the navigable waters in this state in a manner which gives a peace officer, including an officer of the Department of Natural Resources, reasonable grounds to believe that the person is intoxicated is deemed to give consent to withdrawal and chemical testing of the person's blood, breath, or urine without a warrant for the purpose of determining the alcohol concentration or presence of controlled substances or other drugs.⁸¹

B. Preliminary Testing.

A peace officer may request a motorboat or sailboat operator to submit to a preliminary breath screening test if the peace officer has reasonable grounds to believe any of the following has occurred:

- The motorboat or sailboat operator may be operating or has been operating the motorboat or sailboat while intoxicated.

⁸⁰ Iowa Code § 462A.14(12), (13).

⁸¹ Iowa Code § 462A.14A(1).

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- The motorboat or sailboat has been involved in an accident resulting in injury or death.
- The motorboat or sailboat operator is or has been operating the motorboat or sailboat carelessly or recklessly.

The results of a preliminary breath screening test may be used to determine whether an arrest should be made or whether a chemical test of blood, breath, or urine should be requested. The results of a preliminary screening test cannot be used in a court action except to prove that a chemical test was properly requested.⁸²

C. Chemical Testing.

1. Request for Test.

A peace officer may request, in writing, a motorboat or sailboat operator to submit to the withdrawal and testing of blood, breath, or urine if the peace officer has reasonable grounds to believe that the person was operating a motorboat or sailboat while intoxicated and any of the following conditions exist:⁸³

- The peace officer has lawfully placed the person under arrest for operating a motorboat or sailboat while intoxicated.
- The motorboat or sailboat has been involved in an accident or collision resulting in personal injury or death.
- The person has refused to take a preliminary breath screening test.
- The preliminary breath screening test was administered and it indicated an alcohol concentration equal to or in excess of .10.
- The preliminary breath screening test was administered and it indicated an alcohol concentration of less than .10 and the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug.

2. Type of Test — Procedures.

A peace officer shall determine which of the three substances — breath, blood, or urine — shall be tested. A peace officer may take breath or urine samples, but only qualified medical personnel can take a blood sample.⁸⁴

If the peace officer fails to offer the chemical test within two hours after the preliminary breath screening test is administered or refused, or the arrest is made, whichever occurs first, a chemical test is not required, and a person's motorboat or sailboat operation privileges shall not be suspended.

If the peace officer has reasonable grounds to believe that the person was under the influence of a drug other than alcohol, or a combination of alcohol and another drug, a urine test may be required even after a blood or breath test has been administered.

⁸² Iowa Code § 462A.14A(2).

⁸³ Iowa Code § 462A.14A(3).

⁸⁴ Iowa Code § 462A.14A(4), (6).



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A person who is dead, unconscious, or otherwise incapable of consent or refusal is deemed not to have withdrawn consent and the test may be given if a licensed physician certifies in advance of the test that the person is dead, unconscious, or otherwise incapable of consent or refusal.⁸⁵

D. Test Refusal.

1. Suspension of Privileges.

Refusal to submit to a chemical test of urine or breath lawfully requested by a peace officer will result in the suspension of the person's privilege to operate a motorboat or speedboat for at least one year. If the person is also convicted of operating a motorboat or sailboat while intoxicated, the person is subject to additional penalties applicable to the offense. However, the one-year suspension of operating privileges for refusal to submit to chemical testing shall run concurrently with any period of suspension of operating privileges ordered for operating while intoxicated.⁸⁶

Refusal to submit to a chemical test of blood is not considered a refusal to submit to testing, but upon such a refusal, the peace officer shall offer a chemical test of urine or breath instead.⁸⁷

2. Civil Penalties.

Refusal to submit to a chemical test of urine or breath lawfully requested by a peace officer will also result in the imposition of mandatory civil penalties as follows:⁸⁸

- For a first refusal, \$500.
- For a second refusal, \$1,000.
- For a third or subsequent refusal, \$2,000.

If a person does not pay the mandatory civil penalty imposed by the time that the one-year suspension of operating privileges ends, the court must extend the suspension of operating privileges for an additional year and may also impose penalties for contempt.⁸⁹

A court cannot defer judgment or sentencing, or suspend execution of an order or fine imposed as a result of a person's refusal to submit to chemical testing.⁹⁰

E. Test Failure.

If a person submits to a chemical test and the results indicate an alcohol concentration equal to or in excess of .10 and the person is convicted of operating a motorboat or sailboat while intoxicated, the person's motorboat or sailboat operating privileges will be suspended for at least one year and up to six years, depending on the number of previous convictions of the person and whether or not the person caused a serious injury or death. The

⁸⁵ Iowa Code § 462A.14A(4)(f).

⁸⁶ Iowa Code § 462A.14B(2)(a), (5).

⁸⁷ Iowa Code § 462A.14A(4)(d).

⁸⁸ Iowa Code § 462A.14B(2)(b).

⁸⁹ Iowa Code § 462A.14B(3).

⁹⁰ Iowa Code § 462A.14B(4).

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suspension of operating privileges is in addition to any other sentence and fine imposed on the person for the violation.⁹¹

F. Chemical Testing Pursuant to Search Warrant.

A refusal to submit to a lawful request for chemical testing does not prohibit the withdrawal of a specimen for chemical testing if a motorboat or sailboat has been involved in an accident resulting in death or personal injury reasonably likely to cause death, the peace officer has reasonable grounds to believe that the operator was operating the motorboat or sailboat while intoxicated at the time of the accident, and the peace officer has obtained a search warrant pursuant to Iowa Code chapter 808 or Iowa Code section 462A.14D to permit the withdrawal of a specimen for chemical testing. If a person knowingly resists or obstructs the withdrawal of a specimen pursuant to a search warrant, the person is guilty of contempt, which is punishable by a fine not exceeding \$1,000 or by imprisonment in a county jail not exceeding one year or by both the fine and imprisonment. The act of resisting or obstructing also constitutes a refusal to submit, subject to the penalties in Iowa Code section 462A.14B.⁹²

A search warrant requested under Iowa Code section 462A.14D may be based upon sworn oral testimony communicated by telephone if the magistrate is satisfied that the circumstances make it reasonable to dispense with a written affidavit.⁹³

XXIII. Violations of Orders Not to Operate a Motorboat or Sailboat.

A person who operates a motorboat or sailboat after the person has been ordered not to operate a motorboat or sailboat commits a serious misdemeanor, which is punishable with a jail term and a mandatory fine of \$1,000. In addition to the jail term and fine, the court shall extend the period of suspension of operating privileges for an additional like period.⁹⁴

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⁹¹ Iowa Code § 462A.14A(4)(g).

⁹² Iowa Code §§ 462A.14A(5), 462A.14D.

⁹³ Iowa Code § 462A.14D.

⁹⁴ Iowa Code § 462A.14E.