

March 19, 1951.  
Passed on File.

**Senate File 482**  
By JUDICIARY 2.

Passed Senate, Date .....  
Vote: Ayes..... Nays.....  
Passed House, Date .....  
Vote: Ayes..... Nays.....  
Approved .....

## A BILL FOR

An Act to amend chapter six hundred sixty-seven (667), Code 1950, relating to actions against owners of watercraft.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 Section 1. Amend chapter six hundred sixty-seven (667),

2 Code 1950, by inserting therein the following new section:

3 "The use and operation of any boat, raft or other watercraft

4 in any of the waters of this state, including the Iowa portion

5 of boundary rivers, or moored in such waters or against shore

6 land in this state by a person who is a nonresident of this

7 state shall be deemed:

8 1. An agreement by him that he shall be subject to the

9 jurisdiction of the district court of this state over all civil

10 actions and proceedings against him for damages to person or

11 property growing or arising out of such use or operation, and

12 2. An appointment by such nonresident of the secretary

13 of state of this state as his lawful attorney upon whom may be

14 served all original notices of suit pertaining to such actions

15 and proceedings, and

16 3. An agreement by such nonresident that any original

17 notice of suit so served shall be of the same legal force and  
18 validity as if personally served on him in this state.”.

1 Sec. 2. Chapter six hundred sixty-seven (667), Code 1950,  
2 is amended by inserting therein the following new sections:

3 “1. The term ‘person’ as used in section one (1) shall mean:

4 a. The owner of the boat, raft or other watercraft whether  
5 it is being used and operated personally by said owner, or by  
6 his agent.

7 b. An agent using and operating the boat, raft or other  
8 watercraft for his principal.

9 c. Any person who is in charge of the boat, raft or other  
10 watercraft and of the use and operation thereof with the express  
11 or implied consent of the owner.

12. d. The executor or administrator of the estate of the  
13 owner or operator of the boat, raft or other watercraft.

14 “2. The original notice of suit filed with the secretary  
15 of state shall be in form and substance the same as now provided  
16 in suits against residents of this state, except that the part  
17 of said notice pertaining to the return day shall be in  
18 substantially the following form, to wit:

19 ‘and unless you appear thereto and defend in the district  
20 court of Iowa in and for ..... county at the courthouse in  
21 ....., Iowa before noon of the sixtieth (60th) day  
22 following the filing of this notice with the secretary of  
23 state of this state, default will be entered and judgment  
24 rendered against you by the court if then in session in said

25 county, and if the court is not then in session said default  
 26 will be entered and judgment rendered by the court on the first  
 27 day of the first succeeding term or as soon thereafter as the  
 28 same may be reached.'

29 "3. Plaintiff in any such action shall cause the original  
 30 notice of suit to be served as follows:

31 a. By filing a copy of said original notice of suit with  
 32 said secretary of state, together with a fee of two dollars (\$2.00),  
 33 and

34 b. By mailing to the defendant, and to each of the  
 35 defendants if more than one (1), within ten (10) days after  
 36 said filing with the secretary of state, by restricted registered  
 37 mail addressed to the defendant at his last known residence or  
 38 place of abode, a notification of the said filing with the  
 39 secretary of state.

40 "4. The notification, provided for in this chapter shall  
 41 be in substantially the following form, to wit:

42 'To ..... (Here insert the name of each  
 43 defendant and his residence or last known place of abode as  
 44 definitely as known.)

45 You will take notice that an original notice of suit against  
 46 you, a copy of which is hereto attached, was duly served upon  
 47 you at Des Moines, Iowa, by filing a copy of said notice on  
 48 the ..... day of ....., 19....., with the secretary of state  
 49 of the state of Iowa.

50 Dated at ....., Iowa, this ..... day of .....,

51 19.....

52

53

Plaintiff.

54

By.....

55

Attorney for plaintiff.'

56 "5. The term 'restricted registered mail' means mail  
57 which carries on the face thereof, in a conspicuous place  
58 where it will not be obliterated, the indorsement, "Deliver  
59 to addressee only", and which also requires a return receipt.

60 "6. In lieu of mailing said notification to the defendant  
61 in a foreign state, plaintiff may cause said notification to  
62 be personally served in the foreign state on the defendant by any  
63 adult person not a party to the suit, by delivering said  
64 notification to the defendant or by offering to make such  
65 delivery in case defendant refuses to accept delivery.

66 "7. Proof of the filing of a copy of said original notice  
67 of suit with the secretary of state, and proof of the mailing  
68 or personal delivery of said notification to said nonresident  
69 shall be made by affidavit of the party doing said acts. All  
70 affidavits of service shall be indorsed upon or attached to  
71 the originals of the papers to which they relate. All  
72 proofs of service, including the return registry receipt, shall  
73 be forthwith filed with the clerk of the district court.

74 "8. The foregoing provisions relative to service of  
75 original notice of suit on nonresidents shall not be deemed  
76 to prevent actual personal service in this state upon the

77 nonresident in the time, manner, form and under the conditions  
78 provided for service on residents.

79 “9. Actions against nonresidents as contemplated by this  
80 law may be brought in the county of which plaintiff is a  
81 resident, or in the county in which the injury was received,  
82 or damage done.

83 “10. The court in which such action is pending shall  
84 grant such continuances to a nonresident defendant as may be  
85 necessary to afford him reasonable opportunity to defend said  
86 action.

87 “11. The secretary of state shall keep a record of all  
88 notices of suit filed with him, shall not permit said filed  
89 notices to be taken from his office except on an order of  
90 court, and shall, on request, and without fee, furnish any  
91 defendant with a certified copy of the notice in which he is  
92 a defendant.

93 “12. If judgment is rendered against the plaintiff, upon  
94 the trial of said action, said judgment shall include the  
95 reasonable expenses incurred by the defendant and his attorney  
96 appearing to and defending against said action, provided  
97 that in the judgment of the trial court said action was  
98 commenced maliciously or without probable cause.

99 “13. Dismissal of an action after the nonresident  
100 has entered a general appearance under the substituted service  
101 herein authorized, shall bar the recommencement of the same  
102 action against the same defendant unless said recommenced

103 action is accompanied by actual personal service of the original  
104 notice of suit on said defendant in this state.

105 “14. The person in charge of such boat, raft or other  
106 watercraft, shall report within twenty-four (24) hours to the  
107 sheriff of the county wherein the injury occurred the names and  
108 addresses of the owners and operators of the boat, raft or other  
109 watercraft and the names and addresses of all other persons on  
110 board the same at the time of the injury, together with a brief  
111 statement as to how the accident occurred. Failure to make the  
112 report required by this section will subject the owner of the  
113 aircraft to a fine of not less than twenty-five dollars (\$25.00)  
114 and not more than five hundred dollars (\$500.00) and will also  
115 create a presumption of negligence against the owner and or  
116 operator of the boat, raft or other watercraft involved.”.