

1985 Senate Bill 387

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1985 Wisconsin Act 243

AN ACT to renumber 30.61 (5) (a) and 30.61 (6) to (8); to renumber and amend 30.61 (5) (b); to amend 30.01 (5) and 30.01 (8); and to create 30.01 (1m), 30.01 (3e), (3m) and (3s), 30.61 (6) (title) and (b), 30.68 (8m), 30.772, 30.773 and 30.80 (5) of the statutes, relating to the regulation of the placement and use of moorings and the establishment of designated mooring areas and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 30.01 (1m) of the statutes is created to read:

30.01 (1m) "Designated mooring area" means a mooring area designated by a municipality under s. 30.773 (2) and (3), approved by the department and marked as a mooring area.

SECTION 2. 30.01 (3e), (3m) and (3s) of the statutes are created to read:

30.01 (3e) "Mooring" when used as a noun means a mooring anchor and mooring buoy together with attached chains, cables, ropes and pennants and related equipment, unless the term is qualified or restricted.

(3m) "Mooring anchor" means any anchor or weight which is designed to rest on the bed or to be buried in the bed of a navigable water, which is designed to be attached by a chain, cable, rope or other mechanism to a mooring buoy and which is designed to be left in position permanently or on a seasonal basis.

(3s) "Mooring buoy" means any float or marker which is attached to a mooring anchor and either is suitable for attachment to a boat through the use of a pennant or other device or facilitates the attachment of the boat to the mooring anchor.

SECTION 3. 30.01 (5) of the statutes is amended to read:

30.01 (5) "Pier" means any structure extending channelward from the shore with water on both sides, built or maintained for the purpose of providing a berthing ~~or mooring place~~ for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

SECTION 4. 30.01 (8) of the statutes is amended to read:

30.01 (8) "Wharf" means any structure extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berthing ~~or mooring~~ place for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

SECTION 5. 30.68 (8m) of the statutes is created to read:

30.68 (8m) MOORING. No person may use a mooring or attach a boat to a mooring buoy if the mooring or mooring buoy violates s. 30.772 or 30.773.

SECTION 6. 30.772 of the statutes is created to read:

30.772 Placement and use of moorings; restrictions; permits. (1) **AUTHORITY.** The department is authorized to regulate the placement and use of moorings.

(2) **RESTRICTIONS.** No mooring may be placed or used in any navigable waters if:

(a) The mooring obstructs or interferes with public rights or interest in the navigable waters.

(b) The riparian owner does not give written permission for the placement and use of the mooring.

(c) The mooring or use of the mooring interferes with the rights of other riparian owners.

(d) The mooring or use of the mooring adversely affects critical or significant fish or wildlife habitat.

(e) The mooring anchor is placed more than 150 feet from the ordinary high-water mark unless one of the following occurs:

1. A permit is obtained from the appropriate municipality and approved by the department.

2. A permit is obtained from the department.

3. The mooring is properly within a designated mooring area.

(f) The placement or use of the mooring violates a condition or restriction on a permit issued under sub. (4) or violates department rules.

(3) MUNICIPAL REGULATION OF MOORINGS; MUNICIPAL PERMITS; PROCEDURE. (a) Subject to department approval, the governing body of a municipality with jurisdiction over navigable waters may, by ordinance, adopt local regulations relative to the placement and use of moorings, including but not limited to regulations governing:

1. The number of moorings for a specific distance of frontage or within a specific area.
2. The number of boats to be attached to any mooring.
3. The distance between moorings.
4. The safe distance of moored boats from any other moored boats, properly marked and established traffic lanes, properly marked swimming or bathing areas, or structures, including piers, rafts, docks and wharves.

(b) The regulations shall not conflict with the uniform navigation aids system established by the department under s. 30.74 (2) or any rules adopted by the department under s. 30.74 (2).

(c) A municipality shall submit local regulations proposed under this subsection to the department at least 30 days before the municipality votes to adopt the regulations. The department shall advise the municipality in writing of its approval or disapproval of each such regulation. No regulation disapproved by the department may be adopted by the municipality. Permits issued for moorings more than 150 feet from the ordinary high-water mark shall be submitted to the department for approval unless the permit is for a mooring within a designated mooring area.

(d) The governing body of a municipality may, by ordinance, require a permit authorizing the placement and use of a mooring within an authorized mooring area, subject to all of the following:

1. Mooring permits shall be issued only after the governing body, or a person designated by the governing body, determines that the mooring conforms to the provisions of this section and all applicable local regulations adopted under this section.

2. Except as provided under subd. 4, if a mooring permit is issued under this section, no subsequent permit may be required unless the mooring location is changed.

3. After a mooring permit is issued, the governing body of a municipality may revoke the mooring permit if the mooring subsequently violates any provision of this section or any local regulation adopted under this section.

4. The provisions and procedures of ch. 68 shall apply to the grant, denial or revocation of a mooring permit by a municipality.

(e) Any mooring, mooring anchor or mooring buoy which is placed or used in any navigable water in violation of this section or any local regulation adopted by a municipality under this subsection constitutes a public nuisance subject to s. 30.15 (4). A municipality

may, by ordinance, provide that any person who violates any local regulation adopted under this subsection is subject to a forfeiture not to exceed \$50 for each such violation. The ordinance may also provide that each day during which the violation exists is a separate offense.

(f) In addition to, or as an alternative to, the penalties specified in par. (e), the governing body of a municipality may remove unlawful moorings as provided under and pursuant to the procedures of s. 66.0495.

(4) DEPARTMENT PERMITS. The department may issue a permit authorizing the placement or use of a mooring beyond 150 feet from the ordinary high-water mark if the municipality does not have an established permit procedure. The department may place conditions or restrictions on any permit issued under this subsection.

(5) EXCEPTION. The restrictions under this section do not apply to the fleeting of barges on the Mississippi river and its tributaries.

SECTION 6m. 30.773 of the statutes is created to read:

30.773 Designated mooring areas. (1) ESTABLISHMENT OF DESIGNATED MOORING AREAS. Subject to department approval, a municipality with jurisdiction over navigable waters may establish designated mooring areas as provided in this section.

(2) PROCEDURES. A municipality authorized to establish a bulkhead line under s. 30.11 may establish a designated mooring area in the same manner as it is authorized to establish the bulkhead line except that if the municipality created a board of harbor commissioners, the municipality is required to obtain the approval of that board in addition to the approval of the department.

(3) STANDARDS FOR APPROVAL. In addition to requiring compliance with standards and procedures under s. 30.11 and sub. (2), the department shall grant an approval for the establishment of a designated mooring area only if:

(a) The designated mooring area is more than 150 feet from the ordinary high-water mark.

(b) The establishment and operation of the mooring area does not materially obstruct navigation.

(c) The establishment and operation of the mooring area is not detrimental to public rights or interest in the waterway.

(d) The mooring area is not within and does not adversely affect a critical or significant fish or wildlife habitat area.

(e) The establishment and operation of the mooring area complies with all applicable zoning requirements.

(f) The riparian owners agree in writing to the establishment of the mooring area and the area is to be used by the riparian owners or by others with the written consent of the riparian owners.

(g) Use of the mooring area is not unfairly restricted or used to assert exclusive privileges for use of the navigable waters.

(h) The mooring area is marked in a manner which notifies the public of the boundaries of the mooring area and assists in navigation near the mooring area. These markers shall be consistent with the uniform aids to navigation established under s. 30.74 (2).

(4) PERMITS AND REGULATIONS. (a) Department permits under s. 30.772 (4) or department approval of municipal permits under s. 30.772 (3) (c) are not required for moorings placed within a designated mooring area.

(b) A municipality may regulate the placement and use of moorings within designated mooring areas in the manner provided under s. 30.772 (3).

(5) EXCEPTION. The restrictions under this section do not apply to the fleeting of barges on the Mississippi river and its tributaries.

SECTION 7. 30.61 (5) (a) of the statutes is renumbered 30.61 (5).

SECTION 8. 30.61 (5) (b) of the statutes is renumbered 30.61 (6) (a) and amended to read:

30.61 (6) (a) ~~Moored~~ Except as provided under par. (b), any moored, anchored and or drifting boats and

boat or any other fixed and floating structures, except duck blinds constructed in emergent vegetation, structure outside of designated anchorages mooring areas or beyond 200 150 feet from the shoreline shall is required to be lighted from sunset to sunrise by a white light visible all around the horizon. "Designated anchorage" means that area of water established and marked as an anchorage by lawful authority.

SECTION 9. 30.61 (6) to (8) of the statutes are renumbered 30.61 (7) to (9).

SECTION 10. 30.61 (6) (title) and (b) of the statutes are created to read:

30.61 (6) (title) CERTAIN MOORED, ANCHORED OR DRIFTING BOATS; OTHER STRUCTURES.

(b) This subsection does not require any light to be shone from duck blinds constructed on emergent vegetation.

SECTION 11. 30.80 (5) of the statutes is created to read:

30.80 (5) Any person violating s. 30.68 (8m) shall forfeit not more than \$100. Each day during which such violation exists constitutes a separate offense.