

1 **SECTION 262.** 30.62 (4) (b) of the statutes is renumbered 30.62 (4) (b) (intro.)
2 and amended to read:

3 30.62 (4) (b) (intro.) This subsection does not apply to ~~a~~ any of the following:

4 1. A motorboat while competing in a race conducted pursuant to a permit from
5 a town, village or city local governmental unit that enacts an ordinance under s.
6 30.77 or from an authorized agency of the U.S. federal government, ~~nor does it apply~~
7 ~~to a~~.

8 2. A boat designed and intended solely for racing, while the boat is operated
9 incidentally to the tuning up of the boat and engine for the race at the race location
10 on the day of the race.

11 **SECTION 263.** 30.62 (4) (b) 3. of the statutes is created to read:

12 30.62 (4) (b) 3. A motorboat that is equipped with an outboard motor and that
13 is constructed in a manner that does not permit explosive or flammable gases or
14 vapors to become entrapped in the motorboat.

15 **SECTION 264.** 30.62 (5) of the statutes is amended to read:

16 30.62 (5) BACKFIRE FLAME ARRESTERS. Every boat ~~motorboat~~ equipped with an
17 inboard motor using gasoline as a fuel shall have the carburetors of every each
18 inboard gasoline motor fitted with an ~~efficient~~ effective device for arresting backfire
19 flames. The device shall ~~meet the specifications prescribed by~~ comply with federal
20 regulations.

21 **SECTION 265.** 30.62 (6) of the statutes is renumbered 30.62 (6) (a) and amended
22 to read:

23 30.62 (6) (a) ~~Every boat, except open boats,~~ Except as provided in par. (b), every
24 motorboat using as fuel ~~any liquid of a volatile nature,~~ liquid fuel shall be provided

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1 with an ~~efficient natural or mechanical~~ effective ventilation system which ~~that~~ is
2 capable of removing ~~resulting inflammable~~ flammable or explosive gases.

3 **SECTION 266.** 30.62 (6) (b) of the statutes is created to read:

4 30.62 (6) (b) Paragraph (a) does not apply to a motorboat that is constructed
5 in a manner that does not permit explosive or flammable gases or vapors to become
6 entrapped in the motorboat.

7 **SECTION 267.** 30.62 (8) of the statutes is amended to read:

8 30.62 (8) BATTERY COVER. ~~Every motorboat~~ If a boat is equipped with storage
9 batteries a battery as part of the boat's electrical system, the battery shall be
10 provided with suitable supports and secured against shifting with the motion of the
11 boat. Such storage batteries Both battery terminals shall be equipped with a
12 ~~nonconductive shielding means~~ covered to prevent accidental shorting of battery
13 terminals.

NOTE: Several changes are proposed for the provision on batteries. The current statute applies only to motorboats. If a nonmotorized boat uses a battery to power an electrical system, there does not appear to be a reason why the nonmotorized boat should not require securing and covering the battery. The current reference to "storage batteries" is replaced by a reference to a battery that is part of the boat's electrical system. This will exclude from this requirement any other equipment such as depth finders, navigation lights or global positioning system units that are typically operated by dry cell batteries or by small, separate 12 volt lead-acid batteries.

14 **SECTION 268.** 30.62 (9) of the statutes is repealed.

NOTE: The current statute requires DNR to promulgate rules to conform state requirement regulations with federal law. This provision is replaced by a general directive in new s. 30.5005 for the DNR to propose statutory amendments, registration, operation and equipment standards in conformity with federal regulations.

15 **SECTION 269.** 30.625 (1) (intro.) and (2) of the statutes are amended to read:

16 30.625 (1) (intro.) No person who is engaged in the rental or leasing of rents
17 or leases personal watercraft to the public may do any of the following:

18 (2) The department may shall promulgate rules to establish minimum
19 standards for the instruction given under sub. (1) (a).

NOTE: Section 30.5005 (1) (b), as created by this bill, states the general authority of DNR to promulgate rules under this subchapter. However, rather than repealing s. 30.625 (2), it is changed to a mandatory provision. This makes this provision consistent with what appears to be the legislative intent of this provision — that the DNR is required to supplement the statute with rules regarding standards for instruction on personal watercraft operation.

1 **SECTION 270.** 30.63 of the statutes is renumbered 30.62 (10) and amended to
2 read:

3 **30.62 (10) SALE AND USE OF CERTAIN OUTBOARD MOTORS RESTRICTED.** (a) *Sale.* No
4 person may sell any new outboard motor for use ~~in~~ on the waters of this state unless
5 ~~such~~ the motor is equipped with a crankcase effectively sealed to prevent the
6 drainage of raw fuel into the waters in which the motor is operated.

7 (b) *Use.* ~~Beginning January 1, 1990, no~~ No person may operate an outboard
8 motor ~~in~~ on the waters of this state unless ~~such~~ the motor is equipped with a
9 crankcase effectively sealed to prevent the drainage of raw fuel into the waters in
10 which ~~such~~ the motor is operated.

11 **SECTION 271.** 30.635 of the statutes is renumbered 30.66 (4) and amended to
12 read:

13 **30.66 (4) ~~MOTORBOAT PROHIBITION SLOW-NO-WAKE: LAKES 50 ACRES OR LESS.~~** ~~On~~
14 No person may operate a motorboat in excess of slow-no-wake speed on lakes of 50
15 acres or less having public access, motorboats may not be operated in excess of
16 slow-no-wake speed, except when such the lakes serve as thoroughfares between 2
17 or more navigable lakes. The department by rule may modify or waive the
18 requirements of this ~~section as to particular~~ subsection for individual lakes, if it finds
19 that public safety is not impaired by ~~such~~ the modification or waiver.

20 **SECTION 272.** 30.64 of the statutes is renumbered 30.68 (14), and 30.68 (14) (a)
21 and (b), as renumbered, are amended to read:

1 30.68 (14) (a) The operator of a ~~duly-authorized~~ patrol boat, when responding
2 to an emergency call or when in pursuit of an actual or suspected violator of the law,
3 need not comply with ~~state law or local~~ this subchapter or ordinances fixing
4 maximum speed limits under s. 30.77 when a siren is being sounded or emergency
5 light is activated and if due regard is given to the safety of other persons in the
6 vicinity. If ~~a~~ an emergency light is used ~~in conjunction with a siren,~~ it shall be the
7 ~~oscillating or flashing type and be fitted with a blue lens of a type and design specified~~
8 under 33 CFR 88.11 or 88.12.

NOTE: Patrol boats are subject to exceptions from various boat operation statutes in ss. 30.62 (2) (i), 30.68 (7) and 30.73 (2) (a). These individual exceptions are deleted in lieu of the general exemption from all boating operation statutes and local regulations for a "patrol boat", as defined in new s. 30.50 (9b).

A blue light is required for law enforcement patrol boats. Red and yellow lights are required for fire and emergency patrol boats.

9 (b) Upon the approach of a ~~duly-authorized~~ patrol boat giving an audio or visual
10 signal, the operator of a boat shall reduce the boat speed to ~~that speed necessary to~~
11 ~~maintain steerage control~~ slow-no-wake and yield the right-of-way to the patrol
12 boat until it has passed.

13 **SECTION 273.** 30.65 (1) (intro.), (b) and (f) and (2) of the statutes are amended
14 to read:

15 30.65 (1) MEETING; OVERTAKING; RIGHT-OF-WAY. (intro.) Every person operating
16 a boat shall comply with the following traffic rules, except when deviation ~~therefrom~~
17 from these rules is necessary to comply with federal ~~pilot~~ inland navigational rules,
18 under 33 USC 2001 to 2073 and 33 CFR parts 84 to 90, while operating on the
19 navigable waters of the United States:

20 (b) When 2 motorboats are approaching each other obliquely or at right angles,
21 the boat ~~which~~ that has the other on ~~her~~ the right shall yield the right-of-way to the

1 other. “Right” means from dead ahead, clockwise to 2 points abaft the starboard
2 beam.

3 (f) A boat granted the right-of-way by this section shall maintain her course
4 and speed, unless to do so would probably result in a collision.

5 (2) ADDITIONAL TRAFFIC RULES. The department may promulgate such
6 additional traffic rules as it deems necessary in the interest of public safety. Such
7 rules shall that conform as nearly as possible to the federal pilot inland navigational
8 rules under 33 USC 2001 to 2073 and the regulations under 33 CFR parts 84 to 90.

9 SECTION 274. 30.66 (1), (2) (title) and (3) of the statutes are amended to read:

10 30.66 (1) SPEED TO BE REASONABLE AND PRUDENT. No person shall may operate
11 a motorboat at a speed greater than is reasonable and prudent under the conditions
12 and having regard for the actual and potential hazards then existing. The speed of
13 a motorboat shall be so controlled as to avoid colliding with any boat, object lawfully
14 in or on the water or with any, or person, boat or other conveyance in or on the water
15 in compliance with legal requirements and exercising due care.

NOTE: The 2nd sentence of this subsection requires the speed of a motorboat to be controlled to avoid collision with objects “lawfully in or on the water” or with persons or boats that are “in compliance with legal requirements and exercising due care”. This suggests that the speed of a motorboat does not need to be controlled to avoid collision with any object, boat or person that does not meet these requirements. The amendment to this subsection requires motorboat speed to be controlled so as to avoid collision with any boat, object or person in or on the water, whether or not that boat, object, or person is lawfully in or on the water or in compliance with legal requirements or exercising due care. This change establishes a principle of “defensive driving” for motorboat operation. A motorboat operator is required to control motorboat speed so as to avoid collision, no matter how any other boat is operated, any object is placed in the water, or any person uses the water.

16 (2) (title) FIXED POSTED LIMITS.

17 (3) PROHIBITED OPERATION SLOW-NO-WAKE. (a) Except under s. 30.69 (3), no No
18 person may operate a motorboat within 100 feet of any dock, raft, pier, or buoyed
19 restricted area on any lake at a speed in excess of slow-no-wake speed.

NOTE: The cross-reference to s. 30.69 (3) relates to restrictions on operation of a motorboat in connection with water skiing. The cross-referenced provision establishes various restrictions on the distance that must be maintained between a motorboat or personal watercraft towing a skier and various other objects. The restrictions in s. 30.69 (3) (a) to (c) do not overlap or contradict the restrictions above in s. 30.66 (3) (a). Therefore, the phrase "Except under s. 30.69 (3)", is deleted. The exception in current s. 30.69 (3) (d) remains relevant, and is duplicated below in new s. 30.66 (3) (c). See the description in the following comment.

1 (b) No person may operate a personal watercraft at a speed in excess of
2 slow-no-wake within 100 feet of any other boat or within 200 feet of the shoreline
3 of any lake. ~~This paragraph does not apply if s. 30.69 (3) (a), (c) or (d) applies to the~~
4 ~~operation of the personal watercraft.~~

NOTE: The restriction on the operation of a personal watercraft within 200 feet of the shoreline of a lake was added by 1997 Wisconsin Act 198. The placement of that language in the first sentence of s. 30.66 (3) (b) creates a problem in connection with the sentence that follows. Most of the restrictions in s. 30.69 (3) (a), (c) and (d) apply to operation of a motorboat that is towing a water skier, and the distances that must be maintained between the motorboat and other objects. The problem is that, for example, if a personal watercraft operator is towing a skier, the restriction on operation within 200 feet of the shoreline of the lake does not apply. This does not appear to be the intent of the legislature. The only portion of s. 30.69 (3) (a), (c) and (d) that applies to operation of a personal watercraft that is towing a skier in relation to the shoreline is s. 30.69 (3) (d), which applies to pickup and drop areas that are marked with regulatory markers and that are open to operators of personal watercraft and to motorboats engaged in water skiing. To resolve this problem, the bill deletes the cross-reference in par. (b) and recreates the substance of the exception for pickup and drop areas in s. 30.66 (3) (c), below.

5 **SECTION 275.** 30.66 (3) (c) of the statutes is created to read:

6 30.66 (3) (c) This subsection does not apply to pickup or drop areas that are
7 marked with regulatory markers and that are open to operators of personal
8 watercraft and to persons and motorboats engaged in water skiing or a similar
9 activity.

NOTE: See the comment to s. 30.66 (3) (b), above.

10 **SECTION 276.** 30.67 (1) of the statutes is renumbered 30.67 (1m) and amended
11 to read:

12 30.67 (1m) DUTY TO RENDER AID. ~~Insofar as~~ If the operator of a boat can do so
13 without serious danger to the operator's boat or to persons on board, the operator of

1 a boat involved in a boating accident shall stop the operator's boat and render to other
2 persons affected thereby ~~such to any person affected by the accident any assistance~~
3 as that may be ~~practicable and necessary to save them from or~~ feasible to save the
4 person or to minimize any danger caused by the accident. The operator shall give
5 the operator's name and address and identification of the operator's boat to any
6 person injured and to the owner of any property damaged in the accident.

NOTE: "Other persons" is replaced by "any person" to clearly provide that the duty to render aid applies to any person affected by the accident. The current statute commences with the provision that the operator must be able to render aid without danger to the operator's boat or to persons on board. It is possible to read the current statute that "other persons" does not apply to the operator or to persons on board the operator's boat.

"Practicable" is replaced by "feasible", to use a more understandable word and with no intention of making a change to this requirement. In effect, this is a standard of reasonableness for the effort that must be undertaken to render aid at the scene of an accident. "Necessary" is deleted as superfluous.

7 **SECTION 277.** 30.67 (1g) (title) of the statutes is created to read:

8 30.67 (1g) (title) DEFINITIONS.

9 **SECTION 278.** 30.67 (2) of the statutes is amended to read:

10 30.67 (2) DUTY TO REPORT. (a) If a boating accident results in death or injury
11 to any person, the disappearance of any person from a boat under circumstances
12 indicating death or injury, or property damage, every operator of a boat involved in
13 an accident shall, without delay and by the quickest means available, give notice of
14 the accident to a ~~conservation warden or local~~ law enforcement officer and shall file
15 a written report with the department on the form prescribed by it. ~~The department~~
16 ~~shall promulgate rules necessary to keep accident reporting requirements in~~
17 ~~conformity with rules adopted by the U.S. coast guard.~~

18 (b) If the operator of a boat is physically incapable of making the report required
19 by this subsection and there was another occupant in the boat at the time of the
20 accident capable of making the report, the other occupant shall make ~~such~~ the report.

NOTE: The rationale for the repeal of the last sentence of this provision is the same as that stated in the note describing the repeal of s. 30.501 (8).

1 **SECTION 279.** 30.67 (3) (title) of the statutes is repealed.

2 **SECTION 280.** 30.67 (3) (a) and (b) of the statutes are renumbered 30.67 (1g) (a)
3 and (b).

4 **SECTION 281.** 30.67 (3) (c) of the statutes is repealed.

NOTE: The definition of “total property damage” is eliminated because it is not used in s. 30.67, stats. This term was originally used in connection with a property damage threshold of \$100 for reporting under current s. 30.67 (2), but that threshold is no longer part of the current statute.

5 **SECTION 282.** 30.67 (4), (5) and (6) (b) of the statutes are amended to read:

6 **30.67 (4) REPORTS CONFIDENTIAL.** No report required by this section to be filed
7 with the department shall may be used as evidence in any trial, civil or criminal,
8 arising out of an accident, except that the department shall furnish upon demand of
9 any person who has or claims to have made ~~such~~ a report, or upon demand of any
10 court, a certificate showing that a specified accident report has or has not been made
11 to the department solely to prove a compliance or a failure to comply with the
12 requirement that ~~such~~ a report be made.

13 **(5) TRANSMITTAL OF INFORMATION TO FEDERAL AND STATE AUTHORITIES.** If any
14 request for information available on the basis of reports filed pursuant to this section
15 is duly made by an authorized official or agency of the U.S. federal government or
16 of the state ~~which~~ that registered the boat involved or the state where the accident
17 occurred, the department shall compile and furnish ~~such~~ the information in
18 accordance with ~~such~~ the request.

19 **(6) (b)** In cases of death involving a boat in which the person died within 6 hours
20 of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from
21 the body of the decedent within 12 hours after his or her death, by the coroner or

1 medical examiner, or by a physician so designated by the coroner or medical
2 examiner or by a qualified person at the direction of the physician. All morticians
3 shall obtain a release from the coroner or medical examiner prior to proceeding with
4 embalming any body ~~coming under the scope~~ that is subject to the requirements of
5 this section. The blood so drawn shall be forwarded to a laboratory approved by the
6 state health officer for analysis of the ~~alcoholic~~ alcohol content of the blood specimen.
7 The laboratory shall notify the coroner or medical examiner causing the blood to be
8 withdrawn ~~shall be notified~~ of the results of each analysis made and the coroner or
9 medical examiner shall forward the results of each analysis to the state health
10 officer. The state health officer shall keep a record of all examinations to be used for
11 statistical purposes only. The cumulative results of the examinations, without
12 identifying the individuals involved, shall be disseminated and made public by the
13 state health officer. The department shall reimburse coroners and medical
14 examiners for the costs incurred in submitting reports and taking blood specimens
15 and laboratories for the costs incurred in analyzing blood specimens under this
16 section.

17 **SECTION 283.** 30.675 (intro.) and (1) of the statutes are renumbered 30.675 (1g)
18 and (1r) and amended to read:

19 30.675 (1g) The display on a boat or by a person of ~~an orange flag~~
20 ~~approximately 18 by 30 inches in size~~ a visual distress signal of a type approved by
21 the U.S. coast guard under 33 CFR 175.101 to 175.140 shall indicate that such boat
22 or person is in need of help.

23 (1r) ~~Insofar as~~ If it is possible without serious danger to the operator's boat or
24 persons on board, the operator of a boat observing a distress signal shall render to

1 the boat or person displaying the signal such assistance as ~~may be practicable and~~
2 necessary is feasible to save the boat or person or to minimize any danger to them.

3 **SECTION 284.** 30.675 (2) of the statutes is amended to read:

4 30.675 (2) No person shall ~~may~~ display a ~~flag like that~~ distress signal described
5 in under sub. (1) (1g) unless such person is in need of assistance to prevent bodily
6 injury or destruction of property.

7 **SECTION 285.** 30.68 (title) and (2) of the statutes are amended to read:

8 **30.68 (title) Prohibited Boat operation.**

9 (2) NEGLIGENT OPERATION. No person may operate or use any boat, or
10 ~~manipulate any water skis, aquaplane~~ engage in water skiing or a similar device
11 ~~upon activity on~~ the waters of this state in a careless, negligent, or reckless manner
12 so as to endanger ~~that person's life, property or person or the life, or property or of~~
13 any person of another.

NOTE: "Manipulate" is replaced by "engage in" with no intention of making any change. "Water skiing or a similar activity" is defined in s. 30.50 by this bill. The last phrase of this provision is simplified to refer to "the life or property of any person". The reference to the "life" of a person refers to risks of both injury and death. The reference to "any person" simplifies the language while continuing to refer to the person operating or using a boat, water skis, or other device, any person on board the boat, as well as any other person.

14 **SECTION 286.** 30.68 (3) (a) of the statutes is renumbered 30.68 (3) and amended
15 to read:

16 30.68 (3) OPERATION BY INCAPACITATED PERSON OR MINOR. No person in charge or
17 control of a boat shall ~~shall~~ may authorize or knowingly permit the boat to be operated by
18 any person who by reason of physical or mental ~~disability~~ incapacity is incapable of
19 operating ~~such~~ the boat under the prevailing circumstances.

NOTE: This subsection is split into 2 subsections (see sub. (3m), below). Subsection (3) applies only to persons lacking the capability of operating a boat. This provision currently refers to physical or mental disability, but the title uses the word "incapacitated". The title suggests that this provision is meant to be broader than a narrow concept of physical or mental disability. This bill substitutes "incapacity" for

“disability”. Incapacity is broader than “physical or mental disability”, as it could include any condition that has a bearing on the ability to operate a boat, such as physical strength or fatigue. The last phrase, “under the prevailing circumstances”, makes it clear that the capacity to operate a boat under some conditions (e.g., in a sheltered bay) may not indicate a capacity to operate the boat under other conditions (e.g., on a wind-swept lake).

1 **SECTION 287.** 30.68 (3) (b) to (d) of the statutes are renumbered 30.68 (3m) (a)
2 to (c), and 30.68 (3m) (a) and (c), as renumbered, are amended to read:

3 30.68 (3m) (a) No person under the age of 10 years may operate a motorboat.
4 Persons at least 10 and less than 12 years of age may operate a motorboat only if they
5 are either accompanied in the boat by a parent or guardian or a person at least 18
6 years of age designated by a parent or guardian. Persons at least 12 and less than
7 16 years of age may operate a ~~motor of any horsepower~~ motorboat, but only if they
8 are either accompanied by a parent or guardian or a person at least 18 years of age
9 designated by a parent or guardian, or in possession of a certificate issued under s.
10 30.74 (1). This paragraph does not apply to personal watercraft.

NOTE: The reference to a motor of any horsepower is deleted because none of the other provisions related to age of a motorboat operator related to horse power.

11 (c) A violation of par. ~~(a) or (b) or (c)~~ done with the knowledge of a parent or
12 guardian ~~shall~~ may also be deemed a violation by the parent or guardian, ~~and~~
13 ~~punishable under s. 30.80.~~

NOTE: “Shall” is replaced by “may” to provide discretion in citing a parent or guardian under the particular circumstances. “Also” is added so that the violation of requirements related to operation, leasing, or rental of a motorboat or personal watercraft by a minor applies both to the minor and to the parent or guardian who knew of the violation. The current statute could be interpreted to mean that only the parent or guardian who knew of the violation is deemed to be in violation of the statute. The reference to the punishment under s. 30.80 is eliminated as unnecessary.

14 **SECTION 288.** 30.68 (3m) (title) of the statutes is created to read:

15 30.68 (3m) (title) OPERATION OF MOTORBOATS BY MINORS.

16 **SECTION 289.** 30.68 (4) (a) of the statutes is renumbered 30.68 (4) and amended
17 to read:

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1 30.68 (4) CREATING HAZARDOUS WAKE OR WASH. No person shall ~~may~~ operate a
2 motorboat so as to approach or pass near another boat in such a manner as to create
3 that creates a hazardous wake or wash.

NOTE: The phrase regarding approaching or passing another boat is eliminated to make this provision broader. There does not appear to be a reason to limit it to these conditions of boat operation. Eliminating this phrase applies this regulation to all methods of motorboat operation, including operation in a circular course.

4 **SECTION 290.** 30.68 (4) (b) of the statutes is repealed.

NOTE: Current s. 30.68 (4) (b) creates a standard of strict liability for damage caused by the wake or wash from a motorboat. A defense is provided if the negligence of the other person was the primary cause of the damage. This statute relates to private remedies and not to DNR enforcement. The special committee determined that such damage should be subject to a standard of ordinary negligence, and thus recommends repeal of this provision.

5 **SECTION 291.** 30.68 (4m) (title) and (5) of the statutes are amended to read:

6 30.68 (4m) (title) FACING PERSONAL WATERCRAFT, FACING BACKWARDS.

7 (5) OPERATING IN CIRCULAR CIRCUITOUS COURSE. No person may operate a
8 motorboat repeatedly in a circuitous course around any other boat, or around any
9 person who is swimming, if such the circuitous course is within 200 feet of such the
10 boat or swimmer; ~~nor shall any.~~

11 (5g) OPERATION NEAR SKIN DIVER OR SWIMMER. No person may operate a boat or
12 water skier operate or approach and no person may engage in water skiing or a
13 similar activity closer than 100 feet to any skin diver's flag or any swimmer unless
14 the one of the following applies:

15 (a) The person is operating a boat that is part of the a skin diving operation or,

16 (b) The person is operating a boat that is accompanying the a swimmer, or
17 unless physical conditions make compliance impossible.

18 **SECTION 292.** 30.68 (5g) (c) of the statutes is created to read:

1 30.68 (5g) (c) There is insufficient room for the person to operate the boat 100
2 or more feet from the skin diver's flag or the swimmer and the boat is not being
3 operated in excess of slow-no-wake speed.

NOTE: The current statute prohibits operation of a boat or use of water skis or similar devices within 100 feet of a skin diver's flag or a swimmer. An exception is provided for boats that are part of a skin diving operation or that are accompanying a swimmer. A further exception applies if "physical conditions" make compliance impossible. Presumably, this latter exception applies to narrow areas on a body of water (e.g., channels or rivers) or when swimming or skin diving occurs near a boat landing. The language of the current statute is clarified to better describe the latter exception with a reference to the available room to navigate. Further, in the latter exception, a requirement to operate at slow-no-wake speed is imposed for boats operating within 100 feet of a skin diver's flag or a swimmer pursuant to this exception. It should be noted that s. 30.70 prohibits diving in established traffic lanes.

4 **SECTION 293.** 30.68 (5m) of the statutes is renumbered 30.66 (5) and amended
5 to read:

6 30.66 (5) TOWING SLOW-NO-WAKE; TOWING BY A PERSONAL WATERCRAFT. A person
7 may use a personal watercraft to tow a stranded or disabled boat if, during towing,
8 the speed of the personal watercraft does not exceed slow-no-wake.

9 **SECTION 294.** 30.68 (6) of the statutes is amended to read:

10 30.68 (6) RIDING ON DECKS AND GUNWALES. No person operating a motorboat may
11 ride or sit, or may allow any other person in the motorboat to ride or sit, on the
12 gunwales, on tops of seat backs or sides, or on the decking over the bow of the boat
13 in an unsafe manner while under way, unless ~~such~~ the person is inboard of guards
14 or railings provided on the boat to prevent persons from being lost overboard.
15 Nothing in this ~~section~~ subsection shall be construed to prohibit entry upon the
16 decking over the bow of the boat for the purpose of anchoring, mooring, or casting off
17 or other necessary purpose.

18 **SECTION 295.** 30.68 (7) (title) of the statutes is amended to read:

19 30.68 (7) (title) ~~RESTRICTED~~ SWIMMING AREAS AND REGULATORY MARKERS.

1 **SECTION 296.** 30.68 (7) of the statutes is renumbered 30.68 (7) (a) and amended
2 to read:

3 30.68 (7) (a) No person ~~shall~~ may operate a boat within ~~a water~~ any area ~~which~~
4 that has been clearly marked by regulatory markers or buoys ~~or some other~~
5 ~~distinguishing device as a bathing or swimming area; nor.~~

6 **(b)** No person may operate a boat in restricted use areas contrary to regulatory
7 notice ~~pursuant to s. 30.74 (2). This subsection does not apply in the case of an~~
8 ~~emergency, or to patrol or rescue craft~~ markers.

NOTE: The deletion of “restricted use areas” clarifies that this provision applies to all regulatory markers, whether or not the regulatory marker designates a restricted use area. See s. 30.68 (14) for the general exception for patrol boats.

9 **SECTION 297.** 30.68 (8) and (8m) (a) of the statutes are amended to read:

10 30.68 (8) ANCHORING IN TRAFFIC LANES. No person may anchor, place, affix, or
11 abandon any unattended boat, raft, float, or similar structure in the traveled portion
12 of any river or channel or in any traffic lane ~~established and legally marked~~
13 designated by aids to navigation, so as to ~~prevent, impede or interfere~~ with the safe
14 passage of any other boat ~~through the same.~~

15 **(8m)** (a) No person may use a mooring ~~or attach a boat to a mooring buoy~~ if the
16 mooring ~~or mooring buoy~~ violates s. 30.772 or 30.773.

NOTE: “Attach a boat to a mooring buoy” duplicates the prohibition on use of a mooring. “Mooring” is defined in s. 30.01 (3e), when used as a noun, to mean “a mooring anchor and mooring buoy together with attached chains, cables, ropes and pennants and related equipment, unless the term is qualified or restricted”.

17 **SECTION 298.** 30.68 (8m) (c) of the statutes is created to read:

18 30.68 (8m) (c) No person may attach a boat to any aid to navigation or
19 regulatory marker, except to mooring buoys.

NOTE: The prohibition in new sub. (8m) (c) is moved to this location from s. 30.68 (12).

20 **SECTION 299.** 30.68 (9) and (11) of the statutes are amended to read:

1 30.68 (9) OVERLOADING. No person may operate, and no owner of a boat may
2 allow a person to operate, a boat that is loaded with passengers or cargo beyond its
3 safe carrying capacity, taking into ~~consideration weather and other~~ account existing
4 operating conditions.

5 (11) UNNECESSARILY SOUNDING WHISTLES HORNS; USE OF FLASHING LIGHTS. No
6 person shall may unnecessarily sound a horn, whistle, or other sound-producing
7 device on any boat while ~~at anchor or under way~~ on the water. The use of a siren or
8 a light that resembles an emergency light specified under sub. (14) (a) on any boat
9 ~~except duly authorized a patrol boats on patrol or rescue boat that is on~~ duty is
10 prohibited.

NOTE: “At anchor or underway” is replaced by “on the water” to make this prohibition broader. For example, the broader language would prohibit unnecessary sounding of a horn while a boat is tied to a dock. “Emergency light” is added to the prohibition on use of a siren.

11 **SECTION 300.** 30.68 (12) of the statutes is repealed.

NOTE: The prohibition on mooring or fastening a boat to aids to navigation or regulatory markers is deleted here and recreated in s. 30.68 (8m) (c), above.

12 **SECTION 301.** 30.68 (14) (title) of the statutes is created to read:

13 30.68 (14) (title) PATROL BOATS.

14 **SECTION 302.** 30.69 (title) of the statutes is amended to read:

15 **30.69 (title) Water skiing and similar activities.**

16 **SECTION 303.** 30.69 (1) (title) of the statutes is amended to read:

17 30.69 (1) (title) ~~PROHIBITED AT CERTAIN TIMES~~ PROHIBITIONS; EXCEPTIONS.

18 **SECTION 304.** 30.69 (1) (a) of the statutes is renumbered 30.69 (1) (a) (intro.)

19 and amended to read:

20 30.69 (1) (a) (intro.) ~~Except as provided in par. (b), no~~ No person may operate
21 do any of the following:

1 1. Operate a motorboat towing a person ~~on engaged in water skis, aquaplane~~
2 ~~or skiing or a similar device activity~~ unless there is in the boat a competent person
3 in addition to the operator in a position to observe the progress of the person being
4 towed. ~~An observer shall be considered competent if that person who is in a position~~
5 ~~to observe, and can in fact observe, the person being towed and relay any signals to~~
6 the operator. ~~This observer requirement does not apply to motorboats classified as~~
7 ~~Class A motorboats by the department actually operated by the persons being towed~~
8 ~~and so constructed as to be incapable of carrying the operator in or on the motorboat.~~
9 No person may engage

10 2. Engage in water skiing, aquaplaning or a similar activity, or operate a
11 motorboat towing a person engaged in water skiing or a similar activity, at any time
12 from sunset to sunrise. ~~This restriction of the hours of water skiing does not prevent~~
13 ~~restrictions of the hours of water skiing between sunrise and sunset by local~~
14 ~~ordinances enacted pursuant to s. 30.77 (3).~~

NOTE: The reference to local ordinances is eliminated, and all provisions related to local ordinances will be consolidated in s. 30.77. It is proposed to expand this prohibition to apply to the motorboat operator as well as to the person engaged in water skiing or a similar activity.

15 **SECTION 305.** 30.69 (1) (b) of the statutes is renumbered 30.69 (1) (b) (intro.)
16 and amended to read:

17 30.69 (1) (b) (intro.) Paragraph (a) 1. does not apply to ~~duly authorized water~~
18 any of the following:

19 1. Water ski tournaments, competitions, exhibitions or trials therefor, where
20 adequate lighting is provided, or practice sessions that are authorized by a permit
21 from a local governmental unit that enacts an ordinance under s. 30.77.

NOTE: The reference to “duly authorized” water ski tournaments and other activities is unclear. A specific reference to authorization by means of a permit from a local governmental unit that adopts ordinances under s. 30.77 is substituted for that phrase.

“Practice sessions” is substituted for “trials”. The meaning of “trials” is not clear, although one sense of that word is a preliminary competition. The special committee believes that the exemption from the observer requirement is widely understood to apply to all activities related to organized water ski activities, including practice sessions, and that the broader exemption from the observer requirement is appropriate, so the statute is redrafted accordingly.

Current s. 30.69 (1) (a) commences with “Except as provided in par. (b)”. That provision is recreated above in s. 30.69 (1) (c), with the omission of the reference to the provision of adequate lighting. It appears to be the intent of the current statute that the observer requirement does not apply to water ski tournaments, competitions, exhibitions or practice sessions under any circumstances.

1 **SECTION 306.** 30.69 (1) (b) 2. of the statutes is created to read:

2 30.69 (1) (b) 2. Motorboats less than 16 feet long that are operated by the person
3 being towed and that are so constructed as to be incapable of carrying the operator
4 in or on the motorboat.

5 **SECTION 307.** 30.69 (1) (bm) of the statutes is created to read:

6 30.69 (1) (bm) Paragraph (a) 2. does not apply to water ski tournaments,
7 competitions, exhibitions, or practice sessions that are conducted under a permit
8 from a local governmental unit that enacts an ordinance under s. 30.77 and for which
9 adequate lighting is provided.

10 **SECTION 308.** 30.69 (1) (c) of the statutes is renumbered 30.69 (1) (b) 3. and
11 amended to read:

12 30.69 (1) (b) 3. ~~In addition to complying with par. (a), no person may operate~~
13 ~~a~~ A personal watercraft that is towing a person who is ~~on~~ engaged in water skis, ~~an~~
14 aquaplane skiing or a similar device activity unless the personal watercraft is
15 designed to seat at least 3 persons.

16 **SECTION 309.** 30.69 (2) of the statutes is amended to read:

17 30.69 (2) CAREFUL AND PRUDENT OPERATION. A person operating a motorboat
18 having in tow a person ~~on water skis, aquaplane or~~ engaged in water skiing or a
19 similar device activity shall operate ~~such boat~~ the motorboat in a careful and prudent

1 manner and at a reasonable distance from persons and property so as not to
2 endanger the life or property of any person.

3 **SECTION 310.** 30.69 (3) of the statutes is amended to read:

4 30.69 (3) RESTRICTIONS. (a) No person operating a motorboat that is towing
5 persons a person engaged in water skiing, ~~aquaplaning~~ or a similar activity may
6 operate the motorboat within 100 feet of any occupied anchored boat, any personal
7 watercraft, or any marked swimming area or public boat landing.

8 (b) No person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity
9 may ~~get~~ come within 100 feet of a personal watercraft or allow the tow rope while in
10 use to ~~get~~ come within 100 feet of a personal watercraft.

11 (c) 1. A motorboat towing a person who is engaged in water skiing, ~~aquaplaning~~
12 or a similar activity.

13 2. The tow rope of a motorboat towing a person who is engaged in water skiing,
14 ~~aquaplaning~~ or a similar activity.

15 3. A person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity.

16 (d) Paragraphs (a) to (c) do not apply to pickup or drop areas that are marked
17 with regulatory markers and that are open to operators of personal watercraft and
18 to persons and motorboats engaged in water skiing or a similar activity.

19 **SECTION 311.** 30.69 (4) of the statutes is amended to read:

20 30.69 (4) INTOXICATED OPERATION. No person may ~~use~~ engage in water skis, an
21 aquaplane skiing or a similar ~~device~~ activity while under the influence of an
22 intoxicant to a degree which renders him or her incapable of safely ~~using~~ engaging
23 in water skis, ~~an aquaplane~~ skiing or a similar ~~device~~ activity, or under the combined
24 influence of an intoxicant and any other drug to a degree which renders him or her

1 incapable of safely using engaging in water skis, an aquaplane skiing or a similar
2 device activity.

3 SECTION 312. 30.70 of the statutes is renumbered 30.70 (1) and amended to
4 read:

5 30.70 (1) No person may engage in ~~underwater diving or~~ swimming with the
6 use of swimming fins or skin diving in waters other than marked swimming areas
7 or within 150 feet of the shoreline, and no unless the location of the swimming or
8 diving is marked by a diver's flag. No person may engage in ~~underwater diving or~~
9 ~~swimming~~ with the use of ~~self-contained~~ any underwater breathing apparatus in
10 waters other than marked swimming areas, unless the location of ~~such~~ the diving or
11 ~~swimming is distinctly marked by a diver's flag, not less than~~.

NOTE: "Underwater diving" is eliminated and "skin diving" is retained. Skin diving appears to be a clear reference to all types of diving that do not involve the use of an underwater breathing apparatus.

12 (2) A diver's flag under sub. (1) shall consist of a flag that is 12 inches high and
13 15 inches long, displaying and displays one diagonal white stripe 3 inches wide on
14 a red background, and. The diver's flag shall be of a height above the water so as to
15 be clearly apparent at a distance of 100 yards under normal conditions, and so
16 designed and displayed as to be visible from any point on the horizon. Except in case
17 of emergency, anyone no person engaging in such diving or swimming shall not that
18 requires a diver's flag may rise to the surface outside of a radius of 50 feet from such
19 the diver's flag.

20 (3) No person engaged in such diving or swimming shall that requires a diver's
21 flag may interfere with the operation of anyone fishing nor or engage in such diving
22 or swimming in established traffic lanes; nor shall any such person alone or with
23 another, intentionally or unintentionally, block or. No person engaged in diving or

1 ~~swimming that requires a diver's flag may obstruct any boat in any manner from~~
2 ~~proceeding to its destination in its course where ~~a~~ no reasonable alternative is~~
3 ~~unavailable available. A reasonable alternative route course is available when the~~
4 ~~otherwise unobstructed boat can proceed to its destination pass the diver's flag~~
5 ~~without reducing its lawful speed, by passing to the right or to the left of a marked~~
6 ~~diving operation while complying with s. 30.68 (5g).~~

NOTE: This provision is modified to eliminate the requirement that the boat must be proceeding to its destination in order for the prohibition on obstructing the boat to apply. This makes the prohibition on obstructing a boat applicable to any legal course that the boat may take. The added reference to s. 30.68 (5g) is the newly numbered requirement for boats to remain at least 100 feet from a diver's flag.

7 **SECTION 313.** 30.71 (1) of the statutes is repealed.

NOTE: The definition of "outlying waters" duplicates the definition of that term in current s. 30.01 (4r).

8 **SECTION 314.** 30.73 (2) (a) of the statutes is repealed and recreated to read:
9 **30.73 (2) (a)** Patrol boat operators.

NOTE: See the exception for patrol boat operators in s. 30.68 (14), as renumbered from s. 30.64.

10 **SECTION 315.** 30.73 (4) of the statutes is repealed.

NOTE: Section 30.73 pertains to use regulations on the Brule River. Subsection (4) establishes a penalty by cross-reference to s. 30.80 (1). However, that cross-reference is unnecessary because s. 30.80 (1) provides that it establishes penalties for violation of ss. 30.50 to 30.80 for which a specific penalty is not provided elsewhere.

11 **SECTION 316.** 30.735 of the statutes is created to read:

12 **30.735 Tampering with navigation aids or regulatory markers.** No
13 unauthorized person may move, remove, molest, tamper with, destroy, or attempt to
14 destroy any aid to navigation or regulatory marker, sign, or other device established
15 and maintained to aid boaters.

NOTE: This provision is currently part of s. 30.68 (12), which is repealed in this bill.

16 **SECTION 317.** 30.74 (1) (c) and (d) of the statutes are amended to read:

1 30.74 (1) (c) A valid certificate issued by another state, as defined in s. 115.46
2 (2) (f), or a province of Canada or the Canadian government that is held by a person
3 will shall be honored if the course content substantially meets that established by
4 the department.

NOTE: Canadian provinces no longer issue boating safety certificates. This is done
by the Canadian government.

5 (d) The department shall also prepare and disseminate information on water
6 safety to the public, including the informational pamphlets specified in s. 30.52 (5)
7 (a) 4. and (b) 3.

8 **SECTION 318.** 30.74 (2) (a) of the statutes is amended to read:

9 30.74 (2) (a) The department by rule shall establish uniform marking of the
10 ~~water areas~~ waters of this state through the placement of aids to navigation and
11 regulatory markers. These rules shall establish a marking system compatible with
12 the system of aids to navigation prescribed by the U.S. coast guard ~~and shall give due~~
13 ~~regard to the system of uniform waterway markers approved by the advisory panel~~
14 ~~of state officials to the merchant marine council, U.S. coast guard.~~

15 (bm) No ~~municipality~~ local governmental unit that enacts an ordinance under
16 s. 30.77 or person may mark the waters of this state in ~~any manner in~~ conflict with
17 the marking system ~~prescribed~~ established by the department under par. (a). Any
18 regulatory marker or aid to navigation that does not comply with this marking
19 system is considered an unlawful obstruction to navigable waters and may be
20 removed ~~in accordance with law~~ under s. 30.95.

21 (c) The department may not prohibit the placement of a regulatory marker or
22 an aid to navigation if it complies with ~~this~~ the marking system established by the

1 ~~department under par. (a) and if it is being placed pursuant to an ordinance that has~~
2 ~~been enacted in compliance with~~ under s. 30.77.

NOTE: The advisory panel is obsolete.

3 **SECTION 319.** 30.74 (2) (b) of the statutes is repealed.

NOTE: The definitions of these terms are deleted here and recreated as definitions
in s. 30.50.

4 **SECTION 320.** 30.74 (3) of the statutes is amended to read:

5 30.74 (3) ENFORCEMENT. The department shall assist in the enforcement of ss.
6 30.50 to 30.80 ~~and in connection therewith.~~ The department may maintain patrol
7 boats and may operate such the patrol boats at such times and places as the
8 department deems necessary in the interest of boating safety and the effective
9 enforcement of boating laws. An ordinance enacted under s. 30.77 does not apply to
10 a patrol boat operated by the department if the patrol boat is engaged in a law
11 enforcement activity.

NOTE: This allows wardens to more effectively patrol lakes and streams, primarily
by avoiding the need to comply with extensive slow-no-wake ordinances.

12 **SECTION 321.** 30.742 of the statutes is renumbered 30.5005 (3).

13 **SECTION 322.** 30.77 of the statutes is repealed and recreated to read:

14 **30.77 Local regulation of boating. (1) DEFINITIONS.** In this section:

15 (a) "Footage of shoreline" means the length of shoreline in feet measured by use
16 of a map wheel on the U.S. geological survey 7 1/2 minute map series.

17 (b) "State law" means this section, ss. 30.50 to 30.71, and those penalties under
18 s. 30.80 that apply to ss. 30.50 to 30.71.

NOTE: SECTION 30.5005 (1) (b), as created by this bill, provides that a reference to
a statute in any of the boating statutes also includes the rules promulgated under that
statute. Thus, "state laws" includes DNR boating rules.

19 (2) LOCAL REGULATION PROHIBITED; EXCEPTION. State laws shall be uniform in
20 operation throughout the state. No local governmental unit may enact an ordinance

1 on any matter pertaining to a state law except as provided under this section, or as
2 provided under another statute that, by its express terms, and, notwithstanding this
3 section, authorizes enactment of an ordinance by a local governmental unit.

NOTE: This first part of this subsection restates current law. See current s. 30.77
(1). The purpose of this provision is to establish the policy that state boating laws are
intended to be uniform, and that the authorization of local regulation is within the
context of this uniformity.

The provision regarding statutory authority other than s. 30.77 is new and states
expressly what is the apparent intent of s. 30.77, that this statute is the exclusive
authority for local regulation of boating equipment and operations, as well as other
matters subject to regulation under this section, unless specific authority is provided
elsewhere in the statutes.

4 (3) DUTIES OF THE DEPARTMENT. (a) *Assistance*. The department shall draft and
5 disseminate model ordinances that meet the requirements of this section. The
6 department shall consult with and assist local governmental units in enacting and
7 enforcing ordinances that meet the requirements of this section.

NOTE: This provision creates a new requirement that DNR must prepare model
ordinances and assist local governmental units in enforcing ordinances enacted by those
governmental units.

8 (b) *Review of ordinances*. The department shall review ordinances as provided
9 under sub. (10).

10 (4) JURISDICTION OF CERTAIN LOCAL GOVERNMENTAL UNITS. (a) *Cities, villages, and*
11 *towns*. 1. A city, village, or town that has the entire shoreline of an inland lake within
12 the boundaries of the city, village, or town may enact ordinances applicable to that
13 lake.

14 2. A city, village, or town that has both banks of a stream within the boundaries
15 of the city, village, or town may enact ordinances applicable to that portion of the
16 stream that is within the boundaries of the city, village, or town.

NOTE: The current statute authorizes a town, village, or city to enact ordinances
applicable to both lakes and streams "within its jurisdiction". With respect to streams,
the current statute does not clearly define the jurisdiction of a town, village, or city. This
bill authorizes the town, village, or city to enact ordinances applicable to streams within
its boundaries (i.e., the town, village, or city has territory on both banks of the stream).
A later provision, in sub. (4) (e), provides that a town, village, or city that is adjacent to

a stream may enact ordinances if the town, village, or city that is also adjacent to the stream (i.e., on the opposite shore) enacts the identical ordinance.

1 3. Notwithstanding pars. (b) 1. to 3. or (c) to (e), a city, village, or town may enact
2 ordinances applicable to waters of this state that pertain to issues of local concern
3 to that city, village, or town, as specified in sub. (5) (h). If there is a disagreement
4 among local governmental units regarding the content of an ordinance enacted
5 under this subdivision, or the priority of an ordinance enacted under this
6 subdivision, as provided in sub. (7) (c), the matter may be submitted to the
7 department for a determination.

NOTE: This provision is new. It authorizes ordinances that are of concern only to an individual town, village, or city. The provisions regarding priority of local governmental unit authority in sub. (7) (c) make it clear that a town, village, or city ordinance related only to local issues supersedes inconsistent provisions of any other ordinance applicable to the same body of water. The scope of these ordinances of local concern is limited by sub. (5) (h).

8 (b) *Counties.* 1. A county that has both banks of a stream within the county
9 boundaries may enact ordinances applicable to that portion of the stream.

NOTE: "Stream" is used instead of "river or stream", which is used in the current statute. There is not a substantive distinction between these 2 terms.

10 2. A county that has the entire shore of an inland lake within the county
11 boundaries may enact ordinances applicable to that lake.

12 2g. A county ordinance enacted under subd. 2. is void if the ordinance is enacted
13 with respect to a lake for which an ordinance is enacted under par. (a) 1., (c), or (d).

14 2r. A county ordinance enacted under subd. 2 with respect to a lake for which
15 an ordinance has not been enacted under par. (a) 1., (c), or (d) is void if any of the
16 following applies:

17 a. The entire shoreline of the lake is within the boundaries of a city, village, or
18 town that adopts a resolution declaring the county ordinance void, and the city,
19 village, or town files a copy of the resolution with the department.

1 b. At least 50 percent of the cities, villages, or towns with a portion of the
2 shoreline of the lake within the boundaries of the city, village, or town adopt a
3 resolution declaring the county ordinance void, a copy of the resolution is filed with
4 the department, and at least 40 percent of the footage of shoreline of the lake is
5 within the boundaries of those cities, villages, or towns.

NOTE: This provision is new. Counties have authority under the current statutes to enact ordinances related only to streams and county marina developments. This bill gives counties the authority to enact ordinances related to an inland lake if the entire shore of the inland lake is within the county boundaries. The county is not required to obtain authorization from the towns, villages, or cities bordering the lake. A county is not required to enact ordinances for all lakes, but rather may determine which lakes within the county merit regulation. Although not stated in the bill, it is obvious that one or more towns, villages, or cities bordering the lake may request the county to enact an ordinance.

Under the current statute, the primary authority to enact boating regulations, or to delegate authority to enact boating regulations, rests with the towns, villages, and cities. Although counties are given authority in this bill to enact boating ordinances, the preeminent authority of towns, villages, and cities is retained. If a town, village, or city enacts an ordinance applicable to a lake or adopts a resolution declaring the county ordinance void, the county ordinance is void with respect to that lake. Similarly, the towns, villages, or cities with concurrent jurisdiction of a lake may adopt a resolution declaring the county ordinance void, if the requisite number of municipalities do so, as provided in this bill. Finally, a town sanitary district or lake district that enacts an ordinance pursuant to authority granted by the towns, villages, or cities bordering a lake renders the county ordinance on that lake void.

6 3. A county may enact ordinances applicable to outlying waters that are
7 contiguous to the county.

NOTE: The current statute authorizes a town, village, or city to enact ordinances applicable to “waters of this state within its jurisdiction”. Municipal jurisdiction of outlying waters is determined by the municipal charter. It appears that there is some variability in jurisdiction, with the jurisdiction of some municipalities ending at the water’s edge and others extending into the Great Lakes for varying distances. It does not appear that there is substantial reason for towns, villages, or cities to adopt boating regulations on the Great Lakes other than in the near-shore areas. Therefore, this bill provides that counties may enact ordinances applicable to outlying waters. Towns, villages, and cities have authority in sub. (4) (a) 3. to enact ordinances of local concern on outlying waters, whether or not the county has adopted ordinances on those waters.

8 4. A county that operates a marina development adjacent to waters of this state
9 may enact ordinances that relate to the development, operation, and use of the
10 marina and the waters adjoining the marina.

1 (c) *Multiple cities, villages, and towns; inland lakes.* A city, village, or town may
2 enact ordinances applicable to an inland lake if the city, village, or town has a portion
3 of the shoreline of the lake within the boundaries of the city, village, or town and all
4 of the following apply:

5 1. At least 50 percent of the cities, villages, or towns with a portion of shoreline
6 of the lake within their boundaries enact an identical ordinance.

7 2. At least 60 percent of the footage of shoreline of the lake is within the
8 boundaries of the cities, villages, and towns that enact an identical ordinance.

9 (d) *Town sanitary district or lake district.* A town sanitary district or public
10 inland lake protection and rehabilitation district may enact ordinances applicable
11 to an inland lake if at least 60 percent of the footage of the shoreline of the lake is
12 within the town sanitary district or public inland lake protection and rehabilitation
13 district boundary and all of the following apply:

14 1. At least 50 percent of the cities, villages, or towns with a portion of the
15 shoreline of the lake within their boundaries adopt a resolution authorizing the town
16 sanitary district or public inland lake protection and rehabilitation district to enact
17 the ordinance.

18 2. At least 60 percent of the footage of shoreline of the lake is within the
19 boundaries of the cities, villages, and towns that adopt the resolution.

20 (e) *Multiple cities, villages, towns, and counties; streams.* 1. A city, village, or
21 town that is contiguous to a stream may enact ordinances applicable to any portion
22 of the stream if each city, village, or town that is contiguous to that portion of the
23 stream on the opposite bank enacts an identical ordinance.

1 2. A county that is contiguous to a stream may enact ordinances applicable to
2 any portion of the contiguous stream if each county that is contiguous to that portion
3 of the stream on the opposite bank enacts an identical ordinance.

NOTE: The current statute does not distinguish between streams within and streams contiguous to a county, town, village, or city. This bill makes that distinction, and requires identical ordinances in the latter case. (The requirement to adopt an identical ordinance is determined by the portion of the stream to which the ordinance applies.)

It should also be noted that the requirement for adopting identical ordinances with respect to a stream that is contiguous to a town, village, or city does not apply to the provision of this bill related to ordinances regarding local issues of concern only to the town, village, or city. See sub. (4) (a) 3., above.

4 **(5) STRICT CONFORMITY AND CONSISTENCY; PROHIBITIONS.** (a) *Ordinances*
5 *authorized.* A local governmental unit may enact and enforce ordinances as provided
6 under this subsection.

NOTE: The current statute, in several instances, authorizes a local governmental unit “to enact and enforce” ordinances. This phrase is not used consistently, and a number of other authorizations in the current statute refer only to “enacting” ordinances. Ordinarily, authority to enforce an ordinance would be implied by the authority to enact an ordinance. However, the jurisdiction of many local governmental units ends at the water’s edge, and the authority to enact ordinances under s. 30.77 is extraterritorial in some cases. This bill retains “enforce” with respect to ordinances in this general grant of authority to enact ordinances. The authority to enforce ordinances is intended to apply to any waters of the state for which the local governmental unit is authorized to enact ordinances.

7 (b) *Strict conformity required.* Ordinances that relate to the subject matter
8 encompassed by ss. 30.61, 30.62, 30.65, 30.67, 30.675, 30.68 (3m) (a) and (b) and (14),
9 30.681 to 30.687, and 30.71 shall be in strict conformity with these statutes.

NOTE: The current statutes provide that an ordinance may either be in strict conformity with or “not contrary to or inconsistent with” state law. The current statutes further provide that an ordinance which is “not contrary to or inconsistent with” state law must relate to “the equipment, use, or operation of boats or to any activity regulated by ss. 30.60 to 30.77”. The current statute does not provide sufficient guidance to determine which state laws require strict conformity, and which ones require consistency in the corresponding ordinances. Therefore, this bill simply lists the statutes that require strict conformity in ordinances on the same subject. Any statute that meets the definition of a “state law” in this bill, and is not on this list, requires consistency in a corresponding ordinance, but may also be in strict conformity with the state law.

10 (c) *Ordinances consistent with state law.* Except for a state law that requires
11 strict conformity under par. (b), every ordinance enacted by a local governmental

1 unit under this section shall be ~~at least~~ consistent with state law if all of the following
2 apply:

3 1. The ordinance is in the interest of public health, safety, or welfare, including
4 the public's interest in preserving the state's natural resources.

5 2. The ordinance relates either to the equipment, use, or operation of boats or
6 to any activity subject to a state law.

NOTE: Current s. 30.77 authorizes certain ordinances that are “not contrary to or
inconsistent with” state law. “Consistent with” is substituted for that phrase in this bill.
There does not appear to be any substantive difference between these phrases.
“Consistent with” is used in the interest of clarity, without intending any change in the
standard for ordinances.

7 (d) *Standards for consistency.* An ordinance is consistent with state law even
8 if it varies from the specific provisions of state law if the ordinance achieves the same
9 general objective as state law, allows free use of the waters of this state within the
10 framework established by state law, and is a reasonable restriction on public rights
11 in waters of this state. An ordinance that meets the standards for consistency in this
12 paragraph is not inconsistent with state law solely because the ordinance establishes
13 standards that are more restrictive than the state law.

NOTE: This provision creates standards regarding what is meant by “consistency”
between ordinances and state law. The effect of this statutory standard is to create a
framework for the DNR to make comments on the issue of consistency in its advisory
review under sub. (10) in this bill, and to guide the decision of the hearing examiner under
the objection procedures in sub. (11) of this bill.

The special committee recognizes that it is difficult to draft statutory standards
regarding consistency that draw a clear line between ordinances that are consistent and
ordinances that are not consistent with state law. The new statutory standards are
intended to aid in the discussion and adjudication of these issues.

14 (e) *Considerations in enacting ordinances.* In enacting an ordinance for an
15 individual body of water, a local governmental unit may take into account factors
16 that include the following:

17 1. The type, size, shape, and depth of the body of water and any features of
18 special environmental significance that the body of water has.