



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3409/1
RNK:ahe&jd

2015 SENATE BILL 315

October 14, 2015 – Introduced by Senators GUDEX and TIFFANY, cosponsored by Representatives SWEARINGEN, TAUCHEN, THIESFELDT, E. BROOKS, T. LARSON, KULP, SKOWRONSKI, CZAJA, TITTL, A. OTT, KNODL and MURSAU. Referred to Committee on Natural Resources and Energy.

1 **AN ACT** *to create* 895.5265 of the statutes; **relating to:** an exemption from civil
2 liability related to the placement of certain structures in navigable waters and
3 wetlands.

Analysis by the Legislative Reference Bureau

This bill provides certain persons with immunity from civil liability for damage or injury caused by the placement of a structure in a navigable water or wetland. Under the bill a person is immune from civil liability if the person is authorized, or acts under the direction of a person who is authorized, to place the structure in the navigable water or wetland in accordance with a permit or other approval issued by the Department of Natural Resources (DNR). A person is also immune from civil liability if DNR has determined that the person is exempt from the requirement to obtain a permit or other approval from DNR to place the structure in the navigable water or wetland or the person is acting under the direction of a person who has received such an exemption. In order to be immune from civil liability, the person must have placed the structure for the purpose of fish and wildlife habitat creation, protection, or improvement or the structure must be a net pen that is used to hold and rear fish and that meets certain other requirements.

The bill also provides that a person who places a structure in a navigable water and who is entitled to immunity from civil liability as described above, does not owe any other person a duty to inspect or maintain the structure, to give warning of the

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existence of the structure, or to give warning of an unsafe condition caused by the structure.

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

1 **SECTION 1.** 895.5265 of the statutes is created to read:

2 **895.5265 Civil liability exemption; placement of certain structures in**
3 **waterways.** (1) In this section, “department” means the department of natural
4 resources.

5 (2) A person is immune from civil liability for damage to personal property,
6 injury to a person, or death caused by placing a structure on the bed of a navigable
7 water or in a wetland if the structure is placed for the purpose of fish and wildlife
8 habitat creation, protection, or improvement or if the structure is a net pen that
9 meets the requirements under s. 30.12 (3) (b) 1. a., b., and c., and if any of the
10 following applies:

11 (a) The department authorized the person to place the structure under a permit
12 or other approval issued under subch. II of ch. 30 or under s. 281.36 and the person
13 placed the structure in accordance with the permit or other approval.

14 (b) The department determined that the person is exempt from the
15 requirement to obtain a permit or other approval under subch. II of ch. 30 or under
16 s. 281.36 and the structure is placed in accordance with the department’s exemption
17 determination.

18 (c) The person is acting under the direction of a person described under par. (a)
19 or (b).

20 (3) No person authorized under sub. (2) (a), (b), or (c) to place a structure in a
21 navigable water or wetland owes to any person a duty to do any of the following:

