

State of Wisconsin



2017 Assembly Bill 599

Date of enactment: **March 28, 2018**

Date of publication*: **March 29, 2018**

2017 WISCONSIN ACT 164

AN ACT *to renumber* 30.053; *to renumber and amend* 30.10 (2); *to amend* 30.053 (title); and *to create* 30.053 (2), 30.10 (2) (b) and 281.31 (2m) (c) of the statutes; **relating to:** determinations of navigability of a stream.

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

SECTION 1. 30.053 (title) of the statutes is amended to read:

30.053 (title) Applicability of chapter to artificial water bodies and certain impoundments.

SECTION 2. 30.053 of the statutes is renumbered 30.053 (1).

SECTION 3. 30.053 (2) of the statutes is created to read:

30.053 (2) Except in subch. V and s. 30.10 (2) (b), nothing in this chapter applies to an impoundment described under s. 30.10 (2) (b) if the impoundment is not hydrologically connected to a stream classified by the department on the effective date of this subsection ... [LRB inserts date], as a class I, class II, or class III trout stream and the impoundment does not discharge directly into a natural navigable waterway.

SECTION 4. 30.10 (2) of the statutes is renumbered 30.10 (2) (a) and amended to read:

30.10 (2) (a) ~~Except~~ Subject to par. (b) and except as provided under sub. (4) (c) and (d), all streams, sloughs, bayous, and marsh outlets, which are navigable in fact for any purpose whatsoever, are declared navigable to the extent that no dam, bridge, or other obstruction shall be

made in or over the same without the permission of the state.

SECTION 5. 30.10 (2) (b) of the statutes is created to read:

30.10 (2) (b) If the department makes a determination that a stream or portion of a stream is not navigable and a dam is constructed on the stream that modifies the flow of the stream or portion of the stream as compared to the natural flow of the stream or portion of the stream prior to its construction, and if an artificial impoundment created by the dam is or has been subject to a federal fish and wildlife service Partners for Fish and Wildlife Habitat Development Agreement or, as determined by the department, a similar publicly administered environmental restoration project, then the department may not change its determination of non-navigability with respect to the stream or portion of the stream unless all of the following conditions are met:

1. All structures that affect the flow of the stream or portion of the stream are removed.

2. All changes to the stream or land adjacent to the stream that could affect the flow of the stream or portion of the stream are substantially returned to their natural state.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

3. A department evaluation of the navigability of the stream or portion of the stream conducted after the conditions in subs. 1. and 2. are met indicates that the department's determination of non-navigability should be changed.

SECTION 6. 281.31 (2m) (c) of the statutes is created to read:

281.31 (2m) (c) Lands adjacent to an impoundment described under s. 30.10 (2) (b) that does not discharge directly into a natural navigable waterway.
