



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 439**

November 29, 1995 - Offered by COMMITTEE ON NATURAL RESOURCES.

1 **AN ACT** *to renumber and amend* 30.66 (3) (a), 30.66 (3) (b) and 30.69 (1); **to**
2 *amend* 30.61 (10) (a), 30.62 (2) (d) 1., 30.625 (1) (a), 30.68 (title), 30.68 (2), 30.68
3 (3) (b), 30.68 (3) (d), 30.68 (5m), 30.68 (9) and (10), 30.69 (2), 30.69 (3) (a), 30.69
4 (3) (b), 30.69 (3) (c) 1., 30.69 (3) (c) 2., 30.69 (3) (c) 3., 30.69 (3) (d), 30.69 (4), 30.74
5 (1) (b), 30.74 (1) (c), 30.77 (3) (a), 30.77 (3) (am) 1., 30.77 (3) (b), 30.77 (3) (d),
6 30.77 (4), 30.80 (2), 30.80 (6) (a), 30.80 (6) (c), 30.80 (6) (e), 48.343 (5) and
7 885.235 (1m) and (4); **to repeal and recreate** 30.68 (3) (b), 30.68 (3) (d) and
8 30.77 (3) (am) 4.; and **to create** 30.61 (10) (c), 30.625 (1) (bn), 30.66 (2m), 30.66
9 (3) (a) 2. and 3., 30.66 (3) (b) 1. to 3., 30.66 (3) (c), 30.66 (3) (d), 30.68 (3) (a) (title),
10 30.68 (3) (c) (title), 30.68 (3) (cg), 30.68 (3) (cr), 30.68 (3) (e), 30.68 (13), 30.681
11 (1) (bn), 30.69 (1), 30.77 (3) (ac) 2., 30.77 (3) (ae), 30.77 (3) (am) 1. b., 30.77 (3)
12 (ar), 30.77 (3) (aw), 30.77 (3) (cm), 30.77 (3) (cr), 30.77 (3) (dm), 30.77 (3) (f),
13 30.80 (6) (a) 4. and 5., 30.80 (6) (a) 6. and 30.80 (7) to (9) of the statutes; **relating**
14 **to:** boating safety, the intoxicated boating law, regulation of personal
15 watercraft, water skiing, local regulation of boating, granting rule-making
16 authority and providing penalties.

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

1 **SECTION 1.** 30.61 (10) (a) of the statutes is amended to read:

2 30.61 **(10)** (a) Notwithstanding subs. (1), (2), (8) and (9), no person may operate
3 a personal watercraft at any time from sunset to sunrise. This restriction on the
4 hours of operation of a personal watercraft does not prevent restrictions on the hours
5 of operation between sunrise and sunset by the ordinances enacted under s. 30.77
6 (3).

7 **SECTION 2.** 30.61 (10) (c) of the statutes is created to read:

8 30.61 **(10)** (c) Notwithstanding par. (a), a person may operate a personal
9 watercraft during the time between sunset and sunrise if the operation of the
10 personal watercraft is necessary for an emergency and if the operation complies with
11 the applicable lighting requirements under subs. (1), (2), (8) and (9).

12 **SECTION 3.** 30.62 (2) (d) 1. of the statutes is amended to read:

13 30.62 **(2)** (d) 1. No person may manufacture ~~and~~ or offer for sale any motorboat
14 for use on the waters of this state if the motorboat cannot be operated in such a
15 manner so as to comply with the noise level requirements under par. (b).

16 **SECTION 4.** 30.625 (1) (a) of the statutes is amended to read:

17 30.625 **(1)** (a) Rent or lease a personal watercraft for operation by a person who
18 will be operating a personal watercraft for the first time and who does not hold a valid
19 certificate issued under s. 30.68 (3) (e) or 30.74 (1) unless the person engaged in the
20 rental or leasing gives the person instruction on how to operate a personal
21 watercraft.

22 **SECTION 5.** 30.625 (1) (bn) of the statutes is created to read:

1 30.625 (1) (bn) Rent or lease a personal watercraft to a person who is 16 or 17
2 years of age unless the person holds a valid certificate issued under s. 30.68 (3) (e)
3 or 30.74 (1).

4 **SECTION 6.** 30.66 (2m) of the statutes is created to read:

5 30.66 (2m) LACK OF SPEEDOMETER NOT A DEFENSE. In any forfeiture or criminal
6 action for an alleged violation of sub. (1) or (2), the defendant may not raise the
7 defense that he or she did not know how fast the motorboat was moving because the
8 motorboat lacked a speedometer.

9 **SECTION 7.** 30.66 (3) (a) of the statutes is renumbered 30.66 (3) (a) (intro.) and
10 amended to read:

11 30.66 (3) (a) (intro.) ~~Except under s. 30.69 (3), no~~ No person may operate a
12 motorboat ~~within~~ that is not a personal watercraft at a speed in excess of
13 slow-no-wake in any of the following areas:

14 1. Within 100 feet of any dock, raft, pier or buoyed restricted area on any lake
15 at a speed in excess of slow-no-wake speed.

16 **SECTION 8.** 30.66 (3) (a) 2. and 3. of the statutes are created to read:

17 30.66 (3) (a) 2. Within 100 feet of a boat, other than a motorboat or a sailboat,
18 that is being operated.

19 3. Within 100 feet of any boat that is not being operated.

20 **SECTION 9.** 30.66 (3) (b) of the statutes is renumbered 30.66 (3) (b) (intro.) and
21 amended to read:

22 30.66 (3) (b) (intro.) No person may operate a personal watercraft at a speed
23 in excess of slow-no-wake ~~within 100 feet of any other boat.~~ ~~This paragraph does~~
24 ~~not apply if s. 30.69 (3) (a), (c) or (d) applies to the operation of the personal~~
25 ~~watercraft.~~ in any of the following areas:

1 **SECTION 10.** 30.66 (3) (b) 1. to 3. of the statutes are created to read:

2 30.66 (3) (b) 1. Within 100 feet of any dock, raft, pier or buoyed restricted area
3 on any lake.

4 2. Within 100 feet of the shoreline of any lake.

5 3. Within 100 feet of any boat, regardless of whether the boat is being operated.

6 **SECTION 11.** 30.66 (3) (c) of the statutes is created to read:

7 30.66 (3) (c) Notwithstanding pars. (a) and (b), if a person who is operating a
8 motorboat is towing a person who is engaged in water skiing, as defined in s. 30.69
9 (1), the provisions under s. 30.69 (3) (a) and (c) shall apply to the extent that they are
10 more restrictive than the provisions under pars. (a) and (b).

11 **SECTION 12.** 30.66 (3) (d) of the statutes is created to read:

12 30.66 (3) (d) The distance restrictions in pars. (a) to (c) do not apply to a person
13 who is water skiing, as defined in s. 30.69 (1), or a motorboat towing that person, in
14 an area that is marked with regulatory markers and that is open to the person or
15 motorboat for pickup or drop-off purposes.

16 **SECTION 13.** 30.68 (title) of the statutes is amended to read:

17 **30.68 (title) Prohibited and restricted operation.**

18 **SECTION 14.** 30.68 (2) of the statutes is amended to read:

19 30.68 (2) **NEGLIGENT OPERATION.** No person may operate or use any boat, or
20 ~~manipulate any water skis, aquaplane or similar device~~ engage in water skiing, as
21 defined in s. 30.69 (1), upon the waters of this state in a careless, negligent or reckless
22 manner so as to endanger ~~that person's~~ his or her life, property or person or the life,
23 property or person of another.

24 **SECTION 15.** 30.68 (3) (a) (title) of the statutes is created to read:

25 30.68 (3) (a) (title) *Incapacitated persons.*

1 **SECTION 16.** 30.68 (3) (b) of the statutes is amended to read:

2 30.68 (3) (b) (title) *Minors under age 16; motorboats other than personal*
3 *watercraft.* No person under the age of 10 years may operate a motorboat. ~~Persons~~
4 ~~No person who is at least 10 and years of age but less than 12 years of age may operate~~
5 ~~a motorboat only if they are unless he or she is~~ either accompanied in the boat
6 ~~motorboat~~ by a parent or guardian or a person at least 18 years of age designated by
7 a parent or guardian. ~~Persons~~ ~~No person who is at least 12 and years of age but less~~
8 ~~than 16 years of age may operate a motor of any horsepower, but only if they are~~
9 ~~motorboat unless he or she is~~ either accompanied in the motorboat by a parent or
10 guardian or a person at least 18 years of age designated by a parent or guardian, or
11 unless he or she is in possession of a valid certificate issued under s. 30.74 (1). This
12 paragraph does not apply to personal watercraft.

13 **SECTION 17.** 30.68 (3) (b) of the statutes, as affected by 1995 Wisconsin Act ...
14 (this act), is repealed and recreated to read:

15 30.68 (3) (b) *Minors under age 16; motorboats other than personal watercraft.*
16 No person under the age of 10 years may operate a motorboat. No person who is at
17 least 10 years of age but less than 12 years of age may operate a motorboat unless
18 he or she holds a valid certificate issued under s. 30.74 (1) and is accompanied in the
19 motorboat by a parent or guardian or a person at least 18 years of age designated by
20 a parent or guardian. No person who is at least 12 years of age but less than 16 years
21 of age may operate a motorboat unless he or she holds a valid certificate issued under
22 s. 30.74 (1). This paragraph does not apply to personal watercraft.

23 **SECTION 18.** 30.68 (3) (c) (title) of the statutes is created to read:

24 30.68 (3) (c) (title) *Minors under age 16; personal watercraft.*

25 **SECTION 19.** 30.68 (3) (cg) of the statutes is created to read:

1 30.68 (3) (cg) *Minors ages 16 and 17; motorboats other than personal*
2 *watercraft.* No person who is 16 or 17 years of age may operate a motorboat unless
3 the person holds a valid certificate issued under par. (e) or s. 30.74 (1). This
4 paragraph does not apply to personal watercraft.

5 **SECTION 20.** 30.68 (3) (cr) of the statutes is created to read:

6 30.68 (3) (cr) *Minors ages 16 and 17; personal watercraft.* No person who is 16
7 or 17 years of age may operate, lease or rent a personal watercraft unless the person
8 holds a valid certificate issued under par. (e) or s. 30.74 (1).

9 **SECTION 21.** 30.68 (3) (d) of the statutes is amended to read:

10 30.68 (3) (d) (title) *Parental responsibility.* A violation of under par. (b) or (c)
11 done with the knowledge of a parent or guardian shall be deemed considered a
12 violation by the parent or guardian, and is punishable under s. 30.80.

13 **SECTION 22.** 30.68 (3) (d) of the statutes, as affected by 1995 Wisconsin Act ...
14 (this act), is repealed and recreated to read:

15 30.68 (3) (d) *Parental responsibility.* A violation under pars. (b) to (cr) done
16 with the knowledge of a parent or guardian shall be considered a violation by the
17 parent or guardian and is punishable under s. 30.80.

18 **SECTION 23.** 30.68 (3) (e) of the statutes is created to read:

19 30.68 (3) (e) *Boating safety examination.* 1. The department shall administer
20 an examination on boating safety and operation. The department may promulgate
21 rules for administration of the examination under this subdivision, including rules
22 that specify the content of the examination, the score that constitutes satisfactory
23 completion of the examination and the minimum amount of time that a person must
24 wait to retake the examination. The department shall issue a certificate to any

1 person who satisfactorily completes the examination and who is either 16 or 17 years
2 old.

3 2. A valid certificate issued by another state or a province of Canada may be
4 used by the holder of the certificate in lieu of a certificate issued under subd. 1. if the
5 examination content substantially meets that established by the department.

6 **SECTION 24.** 30.68 (5m) of the statutes is amended to read:

7 30.68 (5m) TOWING BY A PERSONAL WATERCRAFT. ~~A No person may use a personal~~
8 ~~watercraft to tow any other watercraft or object except a stranded or disabled boat~~
9 ~~if, during towing, the speed of the personal watercraft does not exceed. No person~~
10 ~~may use a personal watercraft to tow a stranded or disabled boat at a speed in excess~~
11 ~~of slow-no-wake.~~

12 **SECTION 25.** 30.68 (9) and (10) of the statutes are amended to read:

13 30.68 (9) OVERLOADING. ~~No person may operate a boat shall be that is loaded~~
14 ~~with passengers or cargo beyond its safe carrying capacity, taking into consideration~~
15 ~~weather and other existing operating conditions.~~

16 (10) OVERPOWERING. ~~No person may equip or operate a boat shall be equipped~~
17 ~~with any motor or other propulsion machinery beyond its safe power capacity, taking~~
18 ~~into consideration the type and construction of such watercraft and other existing~~
19 ~~operating conditions.~~

20 **SECTION 26.** 30.68 (13) of the statutes is created to read:

21 30.68 (13) EYESIGHT RESTRICTIONS. (a) No person may operate a motorboat
22 without using corrective lenses if the person is required by the department of
23 transportation or by another state to use corrective lenses while operating a motor
24 vehicle.

1 (b) No person may operate a motorboat during nighttime hours if the person
2 is prohibited by the department of transportation or by another state from operating
3 a motor vehicle during nighttime hours.

4 **SECTION 27.** 30.681 (1) (bn) of the statutes is created to read:

5 30.681 (1) (bn) *Operating with alcohol concentrations at specified levels; below*
6 *age 19.* A person who has not attained the age of 19 may not engage in the operation
7 of a motorboat while he or she has a blood alcohol concentration of more than 0.0%
8 but not more than 0.1% by weight of alcohol in his or her blood or more than 0.0 grams
9 but not more than 0.1 grams of alcohol in 210 liters of his or her breath.

10 **SECTION 28.** 30.69 (1) of the statutes is renumbered 30.69 (1m), and 30.69 (1m)
11 (a) and (c), as renumbered, are amended to read:

12 30.69 (1m) (a) Except as provided in par. (b), no person may operate a
13 motorboat towing a person ~~on water skis, aquaplane or similar device~~ who is engaged
14 in water skiing unless there is in the ~~boat~~ motorboat a competent person in addition
15 to the operator in a position to observe the progress of the person being towed. An
16 observer shall be considered competent if that person can in fact observe the person
17 being towed and relay any signals to the operator. ~~This observer requirement does~~
18 ~~not apply to motorboats classified as Class A motorboats by the department actually~~
19 ~~operated by the persons being towed and so constructed as to be incapable of carrying~~
20 ~~the operator in or on the motorboat.~~ No person may engage in water skiing,
21 aquaplaning or similar activity, at any time from sunset to sunrise. This restriction
22 of the hours of water skiing does not prevent restrictions of the hours of water skiing
23 between sunrise and sunset by local ordinances enacted pursuant to s. 30.77 (3).

24 (c) In addition to complying with par. (a), no person may operate a personal
25 watercraft that is towing a person who is ~~on water skis, an aquaplane or similar~~

1 device engaged in water skiing unless the personal watercraft is designed to seat at
2 least 3 persons.

3 **SECTION 29.** 30.69 (1) of the statutes is created to read:

4 30.69 (1) DEFINITION. In this section, “water skiing” includes water skiing using
5 water skis, an aquaplane or a similar device and barefoot water skiing.

6 **SECTION 30.** 30.69 (2) of the statutes is amended to read:

7 30.69 (2) CAREFUL AND PRUDENT OPERATION. A person operating a motorboat
8 having in tow a person ~~on water skis, aquaplane or similar device~~ who is engaged in
9 water skiing shall operate such boat the motorboat in a careful and prudent manner
10 and at a reasonable distance from persons and property so as not to endanger the life
11 or property of any person.

12 **SECTION 31.** 30.69 (3) (a) of the statutes is amended to read:

13 30.69 (3) (a) No person operating a motorboat that is towing persons engaged
14 in water skiing, ~~aquaplaning or similar activity~~ may operate the motorboat within
15 100 feet of any occupied anchored boat, any personal watercraft or any marked
16 swimming area or public boat landing.

17 **SECTION 32.** 30.69 (3) (b) of the statutes is amended to read:

18 30.69 (3) (b) No person who is engaged in water skiing, ~~aquaplaning or similar~~
19 ~~activity~~ may get within 100 feet of a personal watercraft or allow the tow rope while
20 in use to get within 100 feet of a personal watercraft.

21 **SECTION 33.** 30.69 (3) (c) 1. of the statutes is amended to read:

22 30.69 (3) (c) 1. A motorboat towing a person who is engaged in water skiing,
23 ~~aquaplaning or similar activity~~.

24 **SECTION 34.** 30.69 (3) (c) 2. of the statutes is amended to read:

1 30.69 (3) (c) 2. The tow rope of a motorboat towing a person who is engaged in
2 water skiing, ~~aquaplaning or similar activity.~~

3 **SECTION 35.** 30.69 (3) (c) 3. of the statutes is amended to read:

4 30.69 (3) (c) 3. A person who is engaged in water skiing, ~~aquaplaning or similar~~
5 ~~activity.~~

6 **SECTION 36.** 30.69 (3) (d) of the statutes is amended to read:

7 30.69 (3) (d) Paragraphs (a) to (c) do not apply to ~~pickup or drop areas that are~~
8 a person who is water skiing or a motorboat towing that person in an area that is
9 marked with regulatory markers and that are ~~is~~ open to operators of personal
10 ~~watercraft and to persons and motorboats engaged in water skiing~~ the person or
11 motorboat for pickup or drop-off purposes.

12 **SECTION 37.** 30.69 (4) of the statutes is amended to read:

13 30.69 (4) INTOXICATED OPERATION. No person may ~~use water skis, an aquaplane~~
14 ~~or a similar device~~ engage in water skiing while under the influence of an intoxicant
15 to a degree which renders him or her incapable of safely ~~using water skis, an~~
16 ~~aquaplane or a similar device, or under the combined influence of an intoxicant and~~
17 ~~any other drug to a degree which renders him or her incapable of safely using water~~
18 ~~skis, an aquaplane or a similar device~~ water skiing.

19 **SECTION 38.** 30.74 (1) (b) of the statutes is amended to read:

20 30.74 (1) (b) The department shall prescribe the course content, and the form
21 of the certificate and may collect \$2 \$5 from each person who enrolls in the course.
22 The department may authorize instructors conducting such courses meeting
23 standards established by it to retain \$1 \$2.50 of the fee to defray expenses incurred
24 locally to operate the program. The remaining \$1 \$2.50 of the fee shall be retained

1 by the department for the purpose of defraying a part of its expenses incurred to
2 operate the program.

3 **SECTION 39.** 30.74 (1) (c) of the statutes is amended to read:

4 30.74 (1) (c) ~~Valid certificates~~ For purposes of s. 30.68 (3), a valid certificate
5 issued by other states or provinces held by persons between the ages of 10 and 16
6 years will be honored another state or a province of Canada may be used by the holder
7 of the certificate in lieu of a certificate issued under par. (a) if the course content
8 substantially meets that established by the department.

9 **SECTION 40.** 30.77 (3) (a) of the statutes is amended to read:

10 30.77 (3) (a) Any town, village or city may, in the interest of public health, safety
11 or welfare, including the public's interest in preserving the state's natural resources,
12 enact ordinances applicable on any waters of this state within its jurisdiction if the
13 ordinances are not contrary to or inconsistent with this chapter and if the ordinances
14 relate to the equipment, use or operation of boats or to any activity regulated by ss.
15 30.60 to 30.71.

16 (ac) Except as provided under s. 33.455 (3) (b), no ~~such~~ ordinance that pertains
17 to the equipment, use or operation of a boat on an inland lake is valid unless ~~all~~ one
18 of the following occurs:

19 1. All towns, cities and villages and cities having jurisdiction ~~on~~ over the waters
20 ~~of the lake~~ have enacted an identical ordinance.

21 **SECTION 41.** 30.77 (3) (ac) 2. of the statutes is created to read:

22 30.77 (3) (ac) 2. At least 50% of the towns, villages and cities having jurisdiction
23 over the lake have enacted an identical ordinance and at least 60% of the footage of
24 shoreline of the lake is within the boundaries of these towns, villages and cities.

25 **SECTION 42.** 30.77 (3) (ae) of the statutes is created to read:

1 30.77 (3) (ae) If a town, village or city proposes to amend or repeal an ordinance
2 that it enacted under par. (ac), and if the amendment or repeal will result in less than
3 50% of the towns, villages or cities with jurisdiction over the lake still having in effect
4 the current ordinance or if the amendment or repeal will result in less than 60% of
5 the footage of shoreline of the lake being within the boundaries of the towns, villages
6 and cities with the current ordinance still in effect, the town, village or city proposing
7 the amendment or repeal shall hold a hearing on the issue at least 30 days before the
8 amendment or repeal will take effect and shall give notice as required under par. (aw)
9 2. If, after holding the hearing, the town, village or city amends or repeals the
10 ordinance that it enacted under par. (ac), all of the identical ordinances are void.

11 **SECTION 43.** 30.77 (3) (am) 1. of the statutes is amended to read:

12 30.77 (3) (am) 1. A public inland lake protection and rehabilitation district may,
13 in the interest of public health, safety or welfare, including the public's interest in
14 preserving the state's natural resources, enact and enforce ordinances applicable to
15 a lake entirely within its boundaries if each one of the following occurs:

16 a. Each town, village and city having jurisdiction ~~on~~ over the lake adopts a
17 resolution authorizing the lake district to do so.

18 **SECTION 44.** 30.77 (3) (am) 1. b. of the statutes is created to read:

19 30.77 (3) (am) 1. b. At least 50% of the towns, villages and cities having
20 jurisdiction over the lake adopt resolutions authorizing the lake district to enact and
21 enforce ordinances, and at least 60% of the footage of shoreline of the lake is within
22 the boundaries of these towns, villages and cities.

23 **SECTION 45.** 30.77 (3) (am) 4. of the statutes is repealed and recreated to read:

24 30.77 (3) (am) 4. If a town, village or city proposes to rescind a resolution that
25 it adopted under subd. 1., and if the rescision will result in less than 50% of the towns,

1 villages or cities with jurisdiction over the lake still having in effect resolutions
2 adopted under subd. 1. or will result in less than 60% of the footage of shoreline of
3 the lake being within the boundaries of the towns, villages and cities with resolutions
4 still in effect, the town, village or city proposing to rescind the resolution shall hold
5 a hearing on the rescision at least 30 days before the rescision will take effect and shall
6 give notice as required under par. (aw) 2. If, after holding the hearing, the town,
7 village or city rescinds the resolution that it adopted under subd. 1., the lake district
8 ordinances are void.

9 **SECTION 46.** 30.77 (3) (ar) of the statutes is created to read:

10 30.77 (3) (ar) In determining footage of shoreline for purposes of pars. (ac), (ae)
11 and (am), towns, villages, cities and lake districts shall measure by use of a map
12 wheel on the U.S. geological survey 7 1/2 minute series map.

13 **SECTION 47.** 30.77 (3) (aw) of the statutes is created to read:

14 30.77 (3) (aw) 1. If one or more towns, villages or cities propose to enact an
15 ordinance for an inland lake under par. (ac) 2. or a lake district proposes to enact an
16 ordinance for an inland lake under par. (am) 1. b., it shall hold a public hearing on
17 the proposed ordinance at least 30 days before its enactment.

18 2. The town, village or city that has the most footage of shoreline of the lake
19 within its boundaries and that is supporting the proposal shall publish a notice of the
20 public hearing under subd. 1. or par. (ae) or (am) 4. at least 30 days before the date
21 of the hearing in one or more newspapers likely to give notice of the hearing in all
22 towns, villages or cities that have jurisdiction over the lake. The notice shall be a
23 class 1 notice under ch. 985. The town, village or city publishing the notice shall send
24 a copy of the notice at least 30 days before the date of the hearing to the department,

1 each municipality having jurisdiction over the lake and each lake association for the
2 lake.

3 **SECTION 48.** 30.77 (3) (b) of the statutes is amended to read:

4 30.77 (3) (b) Any county may, in the interest of public health, safety or welfare,
5 including the public's interest in preserving the state's natural resources, enact an
6 ordinance applicable on any river or stream within its jurisdiction if the ordinance
7 is not contrary to or inconsistent with this chapter, and if the ordinance relates to the
8 equipment, use or operation of boats or to any activity regulated by ss. 30.60 to 30.71.
9 If a county enacts an ordinance under this paragraph, the county ordinance
10 supersedes all provisions of a town, village or city ordinance enacted under par. (a)
11 that is inconsistent with the county ordinance.

12 **SECTION 49.** 30.77 (3) (cm) of the statutes is created to read:

13 30.77 (3) (cm) In enacting ordinances under par. (a), (am) or (b) for a given body
14 of water, municipalities and public inland lake protection and rehabilitation districts
15 shall take into account factors that include all of the following:

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

18 2. The amount, type and speed of boating traffic on the body of water and
19 boating safety and congestion.

20 3. The degree to which the boating traffic on the body of water affects other
21 recreational uses and the public's health, safety and welfare, including the public's
22 interest in preserving the state's natural resources.

23 **SECTION 50.** 30.77 (3) (cr) of the statutes is created to read:

24 30.77 (3) (cr) The types of ordinances that may be enacted under par. (a), (am)
25 or (b) include the following:

- 1 1. Restrictions on speed.
- 2 2. Restrictions on certain types of boating activities on all, or in specified parts,
- 3 of the lake, river or stream.
- 4 3. Restrictions on certain types of boating activities during specified hours of
- 5 the day or specified days of the week.

6 **SECTION 51.** 30.77 (3) (d) of the statutes is amended to read:

7 30.77 (3) (d) Ordinances pertaining to the equipment, use or operation of boats
8 on inland lakes shall be subject to advisory review by the department as provided
9 under this paragraph. Proposed ordinances subject to review under this paragraph
10 shall be submitted by the local town, village or city clerk or by a public inland lake
11 protection and rehabilitation district to the department at least 60 days prior to final
12 action thereon by the town, village or city governing body. Advisory reports
13 regarding town, village or city or lake district ordinances that regulate the
14 equipment, use or operation of boats on inland lakes shall be based on consideration
15 of the effect of the ordinance on the state from the standpoint of uniformity and
16 enforcement and the effect of the ordinance on an affected town, village, city or lake
17 district in view of pertinent local conditions. Advisory reports shall state in what
18 regard such ordinances are considered consistent or inconsistent with this chapter
19 as to public health, safety or welfare, including the public's interest in preserving the
20 state's natural resources, and shall be accompanied by suggested changes, if any. No
21 later than 20 days after receipt by the department of proposed ordinances, the
22 department shall advise the town, village, city or lake district in writing as to the
23 results of its advisory review under this paragraph. The department shall address
24 the results sent to a town, village or city to its clerk.

25 **SECTION 52.** 30.77 (3) (dm) of the statutes is created to read:

1 30.77 (3) (dm) 1. In this paragraph, “local entity” means a city, village, town,
2 county, qualified lake association, as defined in s. 144.253 (1), nonprofit conservation
3 organization, as defined in s. 23.0955 (1), town sanitary district, public inland lake
4 protection and rehabilitation district or another local governmental unit, as defined
5 in s. 66.299 (1) (a), that is established for the purpose of lake management.

6 2. If the department or a local entity objects to an ordinance enacted under par.
7 (a), (ac) 2. or (am) 1. b., on the grounds that all or a portion of the ordinance is contrary
8 to or inconsistent with this chapter, all of the following apply:

9 a. Upon receipt of an objection under this subdivision, the department shall
10 order a hearing on the objection under ch. 227. The hearing shall be a contested case
11 hearing, and the administrator of the division of hearings and appeals in the
12 department of administration shall assign a hearing examiner to the hearing as
13 provided in s. 227.43. Persons who are not parties to the contested case may present
14 testimony and evidence at the hearing.

15 b. The hearing examiner shall issue an order on the objection within 90 days
16 after the date on which the hearing is ordered under subd. 2. a. If the hearing
17 examiner determines that the ordinance or the portion of the ordinance is contrary
18 to or inconsistent with this chapter, the hearing examiner shall issue an order
19 declaring the ordinance or that portion of the ordinance void. The order shall
20 prohibit the enforcement of all or any portion of the ordinance declared to be void.

21 3. The procedure under this paragraph does not supersede any other legal right
22 or procedure that a person has to contest an ordinance enacted under this section.

23 **SECTION 53.** 30.77 (3) (f) of the statutes is created to read:

24 30.77 (3) (f) In any forfeiture or criminal action for an alleged violation of a local
25 ordinance that restricts the speed of a motorboat, the defendant may not raise the

1 defense that he or she did not know how fast the motorboat was moving because the
2 motorboat lacked a speedometer.

3 **SECTION 54.** 30.77 (4) of the statutes is amended to read:

4 30.77 (4) PUBLICIZING ORDINANCES. All ordinances enacted under sub. (3) shall
5 be prominently posted by the local authority which enacted them and, for ordinances
6 enacted under sub. (3) (ac) 2., by all local authorities having jurisdiction over the
7 lake, at all public access points within the local authority's jurisdiction and also shall
8 be filed with the department.

9 **SECTION 55.** 30.80 (2) of the statutes is amended to read:

10 30.80 (2) Any person violating s. 30.68 (2) shall be fined not more than \$200
11 or imprisoned for not more than 6 months or both. Any person violating s. 30.68 shall
12 be required ordered by the court to obtain a certificate of satisfactory completion of
13 a complete satisfactorily the boating safety course under s. 30.74 (1) regardless of
14 whether the person has a valid boating safety certificate. If the person violating s.
15 30.68 is a resident of another state or a province of Canada, the court may order that
16 the person satisfactorily complete a boating safety course in the state or in the
17 province of Canada in which the person resides if the department has determined
18 that the course has standards that substantially meet the standards established
19 under s. 30.74 (1).

20 **SECTION 56.** 30.80 (6) (a) of the statutes is amended to read:

21 30.80 (6) (a) *Penalties related to prohibited operation of a motorboat;*
22 *intoxicants; refusal.* 1. Except as provided under subds. 2. ~~and 3.~~ to 5., a person who
23 violates s. 30.681 (1) (a) or (b) or 30.684 (5) shall forfeit not less than \$150 nor more
24 than \$300.

1 2. ~~Except as provided under subd. 3.,~~ a A person who violates s. 30.681 (1) (a)
2 or (b) or 30.684 (5) and who, within 5 years prior to the arrest for the current
3 violation, was convicted one time previously under the intoxicated boating law or the
4 refusal law shall be fined not less than \$300 nor more than \$1,000 and shall be
5 imprisoned for not less than 5 days nor more than 6 months.

6 3. A person who violates s. 30.681 (1) (a) or (b) or 30.684 (5) and who, within
7 5 years prior to the arrest for the current violation, was convicted 2 ~~or more~~ times
8 previously under the intoxicated boating law or refusal law shall be fined not less
9 than \$600 nor more than \$2,000 and shall be imprisoned for not less than 30 days
10 nor more than one year in the county jail.

11 **SECTION 57.** 30.80 (6) (a) 4. and 5. of the statutes are created to read:

12 30.80 **(6)** (a) 4. A person who violates s. 30.681 (1) (a) or (b) or 30.684 (5) and
13 who, within 5 years prior to the arrest for the current violation, was convicted 3 times
14 previously under the intoxicated boating law or refusal law shall be fined not less
15 than \$600 nor more than \$2,000 and shall be imprisoned for not less than 60 days
16 nor more than one year in the county jail.

17 5. A person who violates s. 30.681 (1) (a) or (b) or 30.684 (5) and who, within
18 5 years prior to the arrest for the current violation, was convicted 4 or more times
19 previously under the intoxicated boating law or refusal law shall be fined not less
20 than \$600 nor more than \$2,000 and shall be imprisoned for not less than 6 months
21 nor more than one year in the county jail.

22 **SECTION 58.** 30.80 (6) (a) 6. of the statutes is created to read:

23 30.80 **(6)** (a) 6. A person who violates s. 30.681 (1) (bn) shall forfeit \$50.

24 **SECTION 59.** 30.80 (6) (c) of the statutes is amended to read:

1 30.80 (6) (c) *Calculation of previous convictions.* In determining the number
2 of previous convictions under par. (a) 2. ~~and 3.~~ to 5., convictions arising out of the
3 same incident or occurrence shall be counted as one previous conviction.

4 **SECTION 60.** 30.80 (6) (e) of the statutes is amended to read:

5 30.80 (6) (e) *Certificate of satisfactory completion of safety course.* In addition
6 to any other penalty or order, a person who violates s. 30.681 (1) or (2) or 30.684 (5)
7 or who violates s. 940.09 or 940.25 if the violation involves the operation of a
8 motorboat, shall be ordered by the court to ~~obtain a certificate of satisfactory~~
9 ~~completion of a~~ complete satisfactorily the boating safety course under s. 30.74 (1)
10 regardless of whether the person has a valid boating safety certificate. If the person
11 is a resident of another state or a province of Canada, the court may order that the
12 person satisfactorily complete a boating safety course in the state or in the province
13 of Canada in which the person resides if the department has determined that the
14 course has standards that substantially meet the standards established under s.
15 30.74 (1).

16 **SECTION 61.** 30.80 (7) to (9) of the statutes are created to read:

17 30.80 (7) (a) Except as provided in pars. (b) and (c), a person who violates the
18 intoxicated boating law or the refusal law shall be ordered by the court not to engage
19 in the operation of a motorboat in this state for a period of not less than 6 months nor
20 more than 9 months.

21 (b) A person who violates the intoxicated boating law or the refusal law and
22 who, within 5 years prior to the arrest for the current violation, was convicted one
23 time previously under the intoxicated boating law or the refusal law shall be ordered
24 by the court not to engage in the operation of a motorboat in this state for a period
25 of not less than 12 months nor more than 18 months.

1 (c) A person who violates the intoxicated boating law or the refusal law and
2 who, within 5 years prior to the arrest for the current violation, was convicted 2 or
3 more times previously under the intoxicated boating law or the refusal law shall be
4 ordered by the court not to engage in the operation of a motorboat in this state for
5 a period of not less than 24 months nor more than 36 months.

6 (d) In determining the number of previous convictions under pars. (b) and (c),
7 convictions arising out of the same incident or occurrence shall be counted as one
8 previous conviction.

9 (e) For purposes of pars. (a) to (c), the court, in its order, shall schedule the
10 period during which the person may not engage in the operation of a motorboat in
11 this state to occur in one or more periods beginning on April 1 and ending on
12 September 30 of one or more years.

13 **(8)** Any person operating a motorboat in violation of a court order under sub.
14 (7) shall be subject to the following penalties:

15 (a) Except as provided in pars. (b) to (e), a forfeiture of not less than \$150 nor
16 more than \$600.

17 (b) If within 5 years prior to the arrest for the current violation the person was
18 convicted one previous time for violation of an order under sub. (7), a fine of not less
19 than \$300 nor more than \$1,000 and imprisonment for not less than 10 days nor more
20 than 6 months.

21 (c) If within 5 years prior to the arrest for the current violation the person was
22 convicted 2 previous times for a violation of an order under sub. (7), a fine of not less
23 than \$1,000 nor more than \$2,000 and imprisonment for not less than 30 days nor
24 more than 9 months.

1 (d) If within 5 years prior to the arrest for the current violation the person was
2 convicted 3 previous times for a violation of an order under sub. (7), a fine of not less
3 than \$1,500 nor more than \$2,000 and imprisonment for not less than 60 days nor
4 more than one year in the county jail.

5 (e) If within 5 years prior to the arrest for the current violation the person was
6 convicted 4 or more previous times for a violation of an order under sub. (7), a fine
7 of not less than \$2,000 nor more than \$2,500 and imprisonment for not less than 6
8 months nor more than one year in the county jail.

9 **(9)** (a) In addition to other penalties for engaging in the operation of a
10 motorboat in violation of an order under sub. (7), the court may order the
11 impoundment of the motorboat in which the violation occurred, if owned by the
12 violator. The court may determine the manner and period of impoundment. The cost
13 of impoundment and storage of the motorboat constitutes a lien on the motorboat.

14 (b) If a motorboat impounded under par. (a) is subject to a security agreement
15 or lease contract, the motorboat shall be released by the court to the lessor or secured
16 creditor upon the filing of an affidavit by the lessor or secured creditor that the
17 security agreement or lease contract is in default, and the motorboat shall be
18 delivered to the lessor or secured creditor upon payment of the accrued cost of
19 keeping the motorboat.

20 **SECTION 62.** 48.343 (5) of the statutes is amended to read:

21 48.343 **(5)** If the violation is related to unsafe use of a boat, order the child to
22 attend a the boating safety course under s. 30.74 (1) regardless of whether the child
23 has a valid boating safety certificate. If the child is a resident of another state or a
24 province of Canada, the court may order that the child attend a boating safety course
25 in the state or in the province of Canada in which the child resides if the department

1 of natural resources has determined that the course has standards that substantially
2 meet the standards established under s. 30.74 (1).

3 **SECTION 63.** 885.235 (1m) and (4) of the statutes are amended to read:

4 885.235 **(1m)** In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m)
5 or (7) or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the
6 time in question, as shown by chemical analysis of a sample of the person's blood or
7 urine or evidence of the amount of alcohol in the person's breath, is admissible on the
8 issue of whether he or she had a blood alcohol concentration in the range specified
9 in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c) or a measured
10 alcohol concentration under s. 346.63 (7) if the sample was taken within 3 hours after
11 the event to be proved. The fact that the analysis shows that there was more than
12 0.0% but not more than 0.1% by weight of alcohol in the person's blood or more than
13 0.0 grams but not more than 0.1 grams of alcohol in 210 liters of the person's breath
14 is prima facie evidence that the person had a blood alcohol concentration in the range
15 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c) or a
16 measured alcohol concentration under s. 346.63 (7).

17 **(4)** The provisions of this section relating to the admissibility of chemical tests
18 for alcohol concentration, intoxication or blood alcohol concentration shall not be
19 construed as limiting the introduction of any other competent evidence bearing on
20 the question of whether or not a person was under the influence of an intoxicant, had
21 a specified alcohol concentration or had a blood alcohol concentration in the range
22 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m) or 350.101 (1) (c).

23 **SECTION 64. Initial applicability.**

24 (1) The treatment of section 30.80 (6) (a) and (7) of the statutes and the
25 creation of section 30.80 (6) (a) 4. and 5. of the statutes first apply to violations

1 committed on the effective date of this subsection, but do not preclude the counting
2 of previous convictions for sentencing a person.

3 **SECTION 65. Effective dates.** This act takes effect on the day after
4 publication, except as follows:

5 (1) The treatment of section 30.68 (3) (cg), (cr) and (e) 2. of the statutes and the
6 repeal and recreation of section 30.68 (3) (b) and (d) of the statutes take effect on
7 January 1, 1997.

8 (END)