



State of Wisconsin  
2005 - 2006 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 850**

December 15, 2005 - Offered by Representatives GUNDERSON and GARD.

1     **AN ACT** *to renumber and amend* 30.12 (1g) (f); *to amend* 30.13 (4) (a), 30.13  
2           (4) (b), 30.131 (1) (intro.) and 30.291 (1); and *to create* 30.12 (1g) (f) 2., 30.12  
3           (1k), 30.12 (3) (a) 7m., 30.12 (3m) (am), 30.12 (3m) (d), 30.13 (1g) and 30.13 (4)  
4           (e) of the statutes; **relating to:** the regulation of certain wharves and piers and  
5           granting rule-making authority.

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

6           **SECTION 1.** 30.12 (1g) (f) of the statutes is renumbered 30.12 (1g) (f) (intro.) and  
7           amended to read:

8           30.12 (**1g**) (f) (intro.) A pier or wharf that is no more than 6 feet wide, that  
9           extends no further than to a point where the water is 3 feet at its maximum depth,  
10          or to the point where there is adequate depth for mooring a boat or using a boat hoist  
11          or boat lift, whichever is closer to farther from the shoreline, and which that has no  
12          more ~~that 2~~ than either of the following:

1           1. Two boat slips for the first 50 feet of riparian owner’s shoreline footage and  
2           no more than one additional boat slip for each additional 50 feet of the riparian  
3           owner’s shoreline if that pier or wharf abuts riparian property on which there is not  
4           more than one single-family dwelling.

5           **SECTION 2.** 30.12 (1g) (f) 2. of the statutes is created to read:

6           30.12 (1g) (f) 2. Four boat slips for the first 50 feet of riparian owner’s shoreline  
7           footage and no more than 2 additional boat slips for each additional 50 feet of the  
8           riparian owner’s shoreline if that pier or wharf abuts riparian property on which  
9           there is a multifamily dwelling or a commercial or industrial building.

10          **SECTION 3.** 30.12 (1k) of the statutes is created to read:

11          30.12 (1k) EXEMPTION FOR CERTAIN STRUCTURES. (a) In this subsection,  
12          “structure” means a pier, boat shelter, boat hoist, or boat lift.

13          (b) In addition to the exemptions under par. (1g), a riparian owner of a wharf  
14          or pier that was placed on the bed of a navigable water on or before February 6, 2004,  
15          that does not have a deck or loading platform with a surface area that is more than  
16          400 square feet, and that does not interfere with the riparian rights of adjacent  
17          property owners is exempt from the permit requirements under this section if the  
18          owner registers the wharf or pier with the department, in the manner required by  
19          the department, no later than the first day of the 36th month beginning after the  
20          effective date of this paragraph .... [revisor inserts date]. The department may not  
21          charge a fee for the registration of a wharf or pier under this paragraph.

22          (c) The department may not take any enforcement action under this chapter  
23          against a riparian owner of any of the following:

24                1. A structure for which the department has issued a permit under this section  
25                on or before February 6, 2004, if the structure is in compliance with that permit.

1           2. A structure for which the department has issued a written authorization on  
2 or before February 6, 2004, if the structure is in compliance with that written  
3 authorization.

4           3. A structure that qualifies for the exemption under par. (b).

5           (d) The department may not take any enforcement action under this chapter  
6 against a riparian owner of a wharf or pier who does not hold a permit as required  
7 under this section unless the structure constitutes an unlawful obstruction of  
8 navigable waters under s. 30.13.

9           (e) A riparian owner who is exempt under par. (b) from the permit requirements  
10 under this section or who is exempt under par. (c) from enforcement action under this  
11 section may do all of the following:

12           1. Repair and maintain the structure without obtaining a permit from the  
13 department under this section unless the owner enlarges the structure.

14           2. Relocate the structure if it is relocated to a different place on the same  
15 property where the structure was originally placed.

16           (f) A riparian owner who is exempt under par. (b) from the permit requirements  
17 under this chapter or who is exempt under par. (c) from enforcement action under  
18 this chapter may not enlarge the structure without obtaining a permit as required  
19 under this section. If the department takes enforcement action against a riparian  
20 owner under this paragraph, it may take such action only with regard to the portion  
21 of the structure that was enlarged.

22           **SECTION 4.** 30.12 (3) (a) 7m. of the statutes is created to read:

23           30.12 (3) (a) 7m. Place a newly constructed pier that has one additional boat  
24 slip than the number of boat slips authorized under sub. (1g) (f) 1.

25           **SECTION 5.** 30.12 (3m) (am) of the statutes is created to read:

1           30.12 **(3m)** (am) The department may not refuse to allow a riparian owner to  
2 apply for an individual permit for the placement of a pier or wharf, including a solid  
3 pier, that exceeds the number of boat slips authorized under sub. (1g) (f). The  
4 department shall evaluate such permit applications on an individual basis and shall  
5 grant such applications if the department finds that the pier or wharf meets the  
6 requirements under par. (c) 1. to 3.

7           **SECTION 6.** 30.12 (3m) (d) of the statutes is created to read:

8           30.12 **(3m)** (d) 1. In this paragraph, “solid pier” means a pier that does not allow  
9 for the free flow of water beneath the pier.

10          2. The department may promulgate rules that limit the issuance of individual  
11 permits for solid piers to outlying waters, harbors connected to outlying waters, the  
12 Fox River from the dam at De Pere to Lake Winnebago, Lake Winnebago, and the  
13 Mississippi River. The rules may establish reasonable conditions to implement the  
14 criteria under par. (c) 1. to 3. The rules may not prohibit the issuance of individual  
15 permits for solid piers used for private or commercial purposes.

16          **SECTION 7.** 30.13 (1g) of the statutes is created to read:

17          30.13 **(1g)** EXEMPTION FOR CERTAIN PIERS. Notwithstanding sub. (1), a pier need  
18 not meet the conditions specified under sub. (1) (a) to (c) in order to qualify for the  
19 exemption under s. 30.12 (1k).

20          **SECTION 8.** 30.13 (4) (a) of the statutes is amended to read:

21          30.13 **(4)** (a) *Interferes with public rights.* A wharf or pier ~~which~~ that interferes  
22 with public rights in navigable waters constitutes an unlawful obstruction of  
23 navigable waters unless the wharf or pier is authorized under a permit issued under  
24 s. 30.12, unless it is a pier that meets the exemption requirements under s. 30.12 (1k),  
25 or unless other authorization for the wharf or pier is expressly provided.

1           **SECTION 9.** 30.13 (4) (b) of the statutes is amended to read:

2           30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which that  
3 interferes with rights of other riparian owners constitutes an unlawful obstruction  
4 of navigable waters unless the wharf or pier is authorized under a permit issued  
5 under s. 30.12, unless it is a pier that meets the exemption requirements under s.  
6 30.12 (1k), or unless other authorization for the wharf or pier is expressly provided.

7           **SECTION 10.** 30.13 (4) (e) of the statutes is created to read:

8           30.13 (4) (e) A decision of the department against the owner of a structure for  
9 which an exemption is claimed under s. 30.12 (1k) is subject to a trial de novo.

10          **SECTION 11.** 30.131 (1) (intro.) of the statutes is amended to read:

11          30.131 (1) (intro.) Notwithstanding s. 30.133, a wharf or pier of the type which  
12 does not require a permit under ~~ss.~~ s. 30.12 (1) or (1k) and or s. 30.13 that abuts  
13 riparian land and that is placed in a navigable water by a person other than the  
14 owner of the riparian land may not be considered to be an unlawful structure on the  
15 grounds that it is not placed and maintained by the owner if all of the following  
16 requirements are met:

17          **SECTION 12.** 30.291 (1) of the statutes is amended to read:

18          30.291 (1) For purposes of determining whether an exemption is appropriate  
19 under s. 30.12 (1k), (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether  
20 a general permit is appropriate under s. 30.206 (3), or whether authorization to  
21 proceed under a general permit is appropriate under s. 30.206 (3r), any employee or  
22 other representative of the department, upon presenting his or her credentials, may  
23 enter the site and inspect any property on the site.

24

(END)