



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2013 Assembly Bill 352**

**Assembly Amendment 1**

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2013 Assembly Bill 352 (“the bill”) requires the Department of Natural Resources (DNR) to issue a statewide general permit that authorizes the placement of a net pen<sup>1</sup> in a navigable water. It also exempts a person who is authorized under a general permit to place a net pen from obtaining a permit from the Department of Agriculture, Trade, and Consumer Protection (DATCP) or registering that net pen with DATCP as a fish farm.

### **PLACING STRUCTURES IN NAVIGABLE WATERS**

#### **Current Law**

Under current law, a person generally may not place a structure upon the bed of any navigable water unless the placement is exempt from regulation or the DNR has issued an individual or general permit allowing the structure. Some exempt structures include fish cribs intended to improve fish habitat, certain piers and wharves, and biological shore erosion control structures not placed in an area of special natural resource interest if they do not interfere with riparian rights.

#### **The Bill**

The bill requires DNR to issue a statewide general permit that authorizes a person to place a net pen in a navigable water, subject to the following conditions:

- A person may place a net pen only for noncommercial purposes.
- The fish must be stocked in the net pen, and released into the water, by DNR or by a person who has a fish stocking permit.
- The fish held or reared in the net pen must be released into the same body of water into which the net pen is placed.

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<sup>1</sup> “Net pen” means an enclosure placed in a body of water and used to hold or rear fish.

- The general permit may not authorize the placement of a net pen for a period of more than eight weeks.
- The general permit may not limit the number of times that a person may place a net pen in a navigable water.

### **REGULATION OF FISH FARMS BY DATCP**

#### **Current Law**

Under current law, the DATCP administers laws regulating fish farms. A fish farm is a facility at which a person hatches fish eggs or rears fish for the purpose of introduction into the waters of the state or for various other purposes including human or animal consumption. Most individuals who bring fish or fish eggs into this state for the purpose of introduction into the waters of this state are required to obtain a permit from DATCP. Current law also requires a person who operates a fish farm to annually register the fish farm with DATCP.

#### **The Bill**

The bill exempts a person who is authorized under a general permit to place a net pen in the waters of this state from obtaining a permit from DATCP or registering that net pen with DATCP as a fish farm. Furthermore, the bill provides that after the date on which fish are placed in a net pen under the authority of a general permit, DATCP's authority to regulate fish farms does not apply to fish held in that net pen.

### **RIPARIAN OWNERSHIP**

#### **Current Law**

Current law generally prohibits a person from using a natural body of water as a fish farm unless the land that is riparian to the body of water is owned, leased, or controlled by the owners of the fish farm and the body of water is a freeze-out pond, a preexisting fish rearing facility, or a body of water for which DNR has issued a permit for certain other navigable waters activities.

#### **The Bill**

The bill creates an exemption to the above-mentioned prohibition against using a natural body of water as a fish farm. Under the bill, the exemption applies to a person who places a net pen under the authority of a general permit issued by DNR.

### **ASSEMBLY AMENDMENT 1**

As stated above, the **bill** requires DNR to issue a statewide general permit that authorizes a person to place a net pen in a navigable water of this state as long as the net pen meets certain conditions. The **amendment** limits DNR's authority to issue a statewide general permit to only a Great Lakes water body or a tributary of a Great Lakes water body.

**BILL HISTORY**

Assembly Amendment 1 was offered by Representative Bies. On September 25, 2013, the Assembly Committee on Natural Resources and Sporting Heritage recommended adoption of Assembly Amendment 1 and passage of the bill, as amended, on a vote of Ayes, 16; Noes, 0.

On October 8, 2013, the Assembly adopted Assembly Amendment 1 and passed Assembly Bill 352, as amended, on a vote of Ayes, 94; Noes, 2.

On November 7, 2013, the Senate Committee on Natural Resources recommended concurrence in Assembly Bill 352 on a vote of Ayes, 5; Noes, 0.

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