



2005 ASSEMBLY BILL 850

November 29, 2005 – Introduced by Representatives GUNDERSON, GARD, KLEEFISCH, ALBERS, BALLWEG, BIES, J. FITZGERALD, GRONEMUS, HUEBSCH, HUNDERTMARK, JENSEN, JESKEWITZ, KERKMAN, KESTELL, KRAWCZYK, F. LASEE, LEMAHIEU, MEYER, MONTGOMERY, MOULTON, MURSAU, MUSSER, NISCHKE, PETROWSKI, RHOADES, TOWNS, VAN ROY, VOS, WARD and ZIEGELBAUER, cosponsored by Senators STEPP, ZIEN, BRESKE, BROWN, DARLING, A. LASEE, LAZICH, OLSEN, REYNOLDS and ROESSLER. Referred to Committee on Natural Resources.

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) and 30.13 (1g) of the statutes; **relating to:** the regulation of certain
4 wharves, piers, boat shelters, boat hoists, and boat lifts.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no person may deposit any material or place any structure upon the bed of any navigable water where no bulkhead line has been established or, if a bulkhead line has been established, beyond that established line unless the person is granted a permit by the Department of Natural Resources (DNR) pursuant to statute or unless otherwise authorized by the legislature. A bulkhead line is a line established by a municipality in the public interest that conforms as nearly as practicable to an existing shore. Current law also provides that certain nonriparian owners are exempt from the requirement to obtain a permit to place a wharf or pier in navigable waters if the wharf or pier is maintained under an easement that satisfies certain conditions.

This bill modifies the current law permitting exemption for certain piers and wharves. Under current law, a riparian owner of a pier or wharf is entitled to an exemption if the pier or wharf meets certain requirements. The first requirement is that the pier or wharf must be no more than six feet wide. The second requirement is that it may extend no further than one of two points, whichever of these two points is closer to the shoreline. This bill changes this second requirement so that the pier or wharf may extend to whichever of these two points is farther from the shoreline.

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The third requirement under current law is that the pier or wharf may have no more than two boat slips for the first 50 feet of the riparian owner's shoreline footage and no more than one additional boat slip for each additional 50 feet of the riparian owner's shoreline. This bill changes this third requirement so that the owner may alternatively have one boat slip for each dwelling unit located on the riparian owner's property.

This bill also creates a new permitting exception. Under the bill, a riparian owner, and certain nonriparian owners, of a pier, boat shelter, boat hoist, or boat lift (structure) that was permanently placed on or before February 6, 2004, or that was seasonally placed in substantially the same location in four of the years beginning with 1999 and ending with 2003, are exempt from the current law requirement to obtain a permit and may not be the subject of enforcement action by DNR that would require the owner to repair, renovate, modify, or remove the structure. Under the bill, this exemption does not apply if the structure was materially altered or enlarged after February 6, 2004, or, if the structure was seasonally placed, it was placed in a substantially different location after February 6, 2004, than it was placed in the previous season. The exemption also does not apply to a structure that is the subject of an action in which DNR proves by a preponderance of the evidence that the structure presents an imminent and substantial danger to navigation or the public interest.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

8 1. It has no more than 2 boat slips for the first 50 feet of riparian owner's
9 shoreline footage and no more than one additional boat slip for each additional 50
10 feet of the riparian owner's shoreline.

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

2 30.12 **(1g)** (f) 2. It has no more than one boat slip for each dwelling unit, as
3 defined under s. 106.50 (1m) (i), located on the riparian owner's property.

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

5 30.12 **(1k)** EXEMPTION FOR CERTAIN STRUCTURES. (a) In this paragraph,
6 "structure" means a pier, boat shelter, boat hoist, or boat lift.

7 (b) Except as provided in par. (c), a riparian owner of a structure that was
8 permanently placed on or before February 6, 2004, or that was seasonally placed in
9 substantially the same location in 4 of the years beginning with 1999 and ending
10 with 2003, is exempt from the permit requirements under this section for the
11 placement of a structure or the deposit of material and from any enforcement action
12 by the department that requires the riparian owner to repair, renovate, modify, or
13 remove the structure.

14 (c) The exemption under paragraph (b) does not apply to any of the following:

15 1. A structure that is the subject of an action in which the department proves
16 by a preponderance of the evidence that the structure presents an imminent and
17 substantial danger to navigation or the public interest.

18 2. A structure that the riparian owner materially altered or enlarged after
19 February 6, 2004.

20 3. If seasonally placed, a structure that the riparian owner placed in a
21 substantially different location after February 6, 2004, than it was placed in the
22 previous season.

23 **SECTION 4.** 30.13 (1g) of the statutes is created to read:

ASSEMBLY BILL 850**SECTION 4**

1 30.13 (1g) EXEMPTION FOR CERTAIN PIERS. Notwithstanding sub. (1), a pier need
2 not meet the conditions specified under sub. (1) (a) to (e) in order to qualify for the
3 exemption under s. 30.12 (1k).

4 **SECTION 5.** 30.13 (4) (a) of the statutes is amended to read:

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

10 **SECTION 6.** 30.13 (4) (b) of the statutes is amended to read:

11 30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier ~~which~~ that
12 interferes with rights of other riparian owners constitutes an unlawful obstruction
13 of navigable waters unless the wharf or pier is authorized under a permit issued
14 under s. 30.12, unless it is a pier that meets the exemption requirements under s.
15 30.12 (1k), or unless other authorization for the wharf or pier is expressly provided.

16 **SECTION 7.** 30.131 (1) (intro.) of the statutes is amended to read:

17 30.131 (1) (intro.) Notwithstanding s. 30.133, a wharf or pier of the type which
18 does not require a permit under ss. 30.12 (1) and (1k) and 30.13 that abuts riparian
19 land and that is placed in a navigable water by a person other than the owner of the
20 riparian land may not be considered to be an unlawful structure on the grounds that
21 it is not placed and maintained by the owner if all of the following requirements are
22 met:

23 **SECTION 8.** 30.291 (1) of the statutes is amended to read:

24 30.291 (1) For purposes of determining whether an exemption is appropriate
25 under s. 30.12 (1k), (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether

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1 a general permit is appropriate under s. 30.206 (3), or whether authorization to
2 proceed under a general permit is appropriate under s. 30.206 (3r), any employee or
3 other representative of the department, upon presenting his or her credentials, may
4 enter the site and inspect any property on the site.

5

(END)