

**1999 DRAFTING REQUEST****Bill**Received: **06/16/1999**Received By: **rkite**Wanted: **As time permits**

Identical to LRB:

For: **Glenn Grothman (608) 264-8486**By/Representing: **Maggie**This file may be shown to any legislator: **NO**Drafter: **rkite**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Regulation of water ski platforms and jumps

**Instructions:**

See Attached

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>      | <u>Reviewed</u>       | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u>           | <u>Jacketed</u>            | <u>Required</u> |
|--------------|---------------------|-----------------------|--------------|----------------|----------------------------|----------------------------|-----------------|
| /?           | rkite<br>06/26/1999 | ygeller<br>06/30/1999 |              | _____          |                            |                            | State           |
| /P1          | rkite<br>07/14/1999 | ygeller<br>07/14/1999 | kfollet      | _____          | lrb_docadmin<br>07/14/1999 |                            | State           |
| /1           | rkite<br>07/30/1999 | ygeller<br>08/02/1999 | martykr      | _____          | lrb_docadmin<br>08/02/1999 |                            | State           |
| /2           | rkite<br>08/06/1999 | gilfokm<br>08/06/1999 | jfrantze     | _____          | lrb_docadmin<br>08/06/1999 | lrb_docadmin<br>08/09/1999 |                 |

FE Sent For:

<END>

08-19-99  
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Companion is 99-3385

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| /2           | rkite<br>08/06/1999 | lrb_editor            |                       | _____          |                            |                 |                 |

Handwritten notes below the table:  
 12-8-6-99 kmg  
 8/6  
 8/6

08/06/1999 02:00:32 PM  
Page 2

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 06/16/99

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Identical to LRB:

For: Lorraine Seratti (608) 266-3780

By/Representing: Tim Fiocchi

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Alt. Drafters:

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| /P1          | rkite<br>07/14/99 | ygeller<br>07/14/99 | kfollet<br>07/14/99 | _____          | lrb_docadmin<br>07/14/99 |                 |                 |

1 8/2 jg km 8/2 km 8/2

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By/Representing: **Tim Fiocchi**

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1?           | rkite          | 1 7/14 Jg       | Kjf<br>7/14  | Kjf/Km<br>7/14 |                  |                 |                 |

FE Sent For:

<END>

**B I L L**  
**REQUEST FORM**

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft:

*Rep. Seratti*

Date: *6/15* Person submitting request (name, phone number):

*Tim Frocchi*  
*6-3780*

Persons to contact for questions about this draft (names, phone numbers):

*↑*

**Describe the problem, including any helpful examples.**

**How do you want to solve the problem?**

*Please draft the attached language.*

Please attach a copy of any correspondence or other material that may help us.

If you know of any statute sections that might be affected, list them or provide a marked-up (not re-typed) copy.

You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

**Requests are confidential unless stated otherwise.**

- May we tell others that we are working on this for you?  Yes  No
- If yes: Anyone who asks?  Yes  No Any legislator?  Yes  No Only the following persons: \_\_\_\_\_

Do you consider this request urgent?  Yes  No If yes, please indicate why: \_\_\_\_\_

Should we give this request priority over any other pending request of this legislator, agency or body?  Yes  No If yes, sign your name here: \_\_\_\_\_

Yes No

SECTION 1. 30.135 of the statutes is repealed and recreated to read:

**30.135 Regulation of water ski platforms and jumps.** A riparian proprietor may place water ski platform or water ski jump in a navigable waterway without obtaining a permit if the water ski platform or water ski jump is used for the preparation for, or the presentation of, a water ski performance and is subject to regulation under an ordinance adopted pursuant to § 30.77, Stats.

6-24-99

Man from Zeratti's office called -  
needs this as soon as possible because  
of expiration of rules on this issue  
Told him I would get to it as soon as  
possible but couldn't reverse anything  
before budget work is completed



JG

D-Note

Keep → PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 AN ACT ...; relating to: the regulation of water ski platforms and jumps.

**Analysis by the Legislative Reference Bureau**

Under current law, with certain exceptions, a riparian proprietor must obtain a permit from the department of natural resources (DNR) in order to place a water ski platform or water ski jump in a navigable waterway. The proprietor need not obtain a permit if the platform or jump does not interfere with public rights in navigable waters, does not interfere with the rights of other riparian proprietors and is located at a site that ensures adequate water depth and clearance for safe water skiing. If these conditions do not apply, the riparian proprietor must obtain a permit from DNR.

This bill changes the conditions under which a riparian proprietor need not obtain a permit from DNR to place a water ski platform or water ski jump in a navigable waterway. Under the bill, the riparian proprietor need not obtain the permit if the platform or jump is used to prepare for or present a water ski tournament, competition or exhibition and if the construction and location of the platform or jump is regulated by a local ordinance. As under current law, if the riparian proprietor cannot satisfy these conditions, he or she must obtain a permit from DNR.

FE-S →

placement

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

2 SECTION 1. 30.135 (1) (a) 1. of the statutes is amended to read:

X

1           30.135 (1) (a) 1. ~~The platform or jump does not interfere with public rights in~~  
 2           ~~navigable waters~~ is used to prepare for or present a water ski tournament,  
 3           competition or exhibition.

History: 1997 a. 27.

4           **SECTION 2.** 30.135 (1) (a) 2. <sup>X</sup> of the statutes is amended to read:

5           30.135 (1) (a) 2. The ~~construction and location of the~~ <sup>placement</sup> platform or jump does not  
 6           ~~interfere with rights of other riparian proprietors~~ is regulated by a local ordinance  
 7           enacted under s. 30.77 (3).

History: 1997 a. 27.

8           **SECTION 3.** 30.135 (1) (a) 3. <sup>X</sup> of the statutes is repealed.

9           **SECTION 4. Initial applicability.**

10          (1) This act first applies to <sup>a</sup> water ski platforms or <sup>a</sup> water ski jumps <sup>that is</sup> placed in a  
 11          navigable waterway on the effective date of this subsection.

(END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3218/P1dn

RNK.....

1  
jlg

1. Your drafting instructions for this draft were to repeal and recreate s. 30.135 to specify circumstances under which a riparian ~~owner~~<sup>proprietor</sup> may place a water ski platform or water ski jump in a navigable waterway without obtaining a permit. Because, there will be circumstances under which a riparian ~~owner~~<sup>proprietor</sup> must still obtain a permit, I left s. 30.135 (2), (3) and (4) of current law intact. Is this consistent with your intent?

2. Your instructions indicate that you want the law to provide that a riparian ~~owner~~ may not need a permit if the platform or jump is used to prepare or present a water ski performance. Consistent with s. 30.69 in current law concerning water skiing, this draft uses the terms "tournament, competition or exhibition". Is this O.K.?

~~3. In your instructions you stated that you want the law to provide that a riparian ~~owner~~ need not obtain a permit for the platform or jump if, among other things, the platform or jump is subject to regulation under an ordinance enacted under s. 30.77. This draft provides that the "construction and location" of the platform must be regulated by the ordinance. Is this consistent with your intent?~~

3. ~~3.~~ I have included an initial applicability provision in the draft to make clear that the changes in the law will not affect those water ski platforms and jumps that were constructed before the effective date of the changes. Is this O.K.?

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: Robin.Kite@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3218/P1dn  
RNK:jlg:kjf

July 14, 1999

1. Your drafting instructions for this draft were to repeal and recreate s. 30.135 to specify circumstances under which a riparian proprietor may place a water ski platform or water ski jump in a navigable waterway without obtaining a permit. Because, there will be circumstances under which a riparian proprietor must still obtain a permit, I left s. 30.135 (2), (3) and (4) of current law intact. Is this consistent with your intent?
2. Your instructions indicate that you want the law to provide that a riparian proprietor may not need a permit if the platform or jump is used to prepare or present a water ski performance. Consistent with s. 30.69 in current law concerning water skiing, this draft uses the terms "tournament, competition or exhibition". Is this O.K.?
3. I have included an initial applicability provision in the draft to make clear that the changes in the law will not affect those water ski platforms and jumps that were constructed before the effective date of the changes. Is this O.K.?

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: Robin.Kite@legis.state.wi.us

Per Seratti's office -

Redraft -

Repeal 30.135(1)(b) and (2) to (4)

She understands that it will then come  
under S. 30.12

Also - take out initial app.



Mon. 8/2 - H. 111.  
State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3218/2  
RNK:jlg:kjf

pmk  
/1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regulate cat.

may place a water ski platform or jump in a navigable waterway, without obtaining a permit

1 AN ACT to repeal 30.135 (1) (a) 3.; and to amend 30.135 (1) (a) 1. and 30.135 (1)  
2 (a) 2. of the statutes; relating to: the <sup>placement</sup> regulation of water ski platforms and  
3 jumps.

which is

special

Analysis by the Legislative Reference Bureau

a person who owns waterfront property

Under current law, with certain exceptions, a riparian proprietor must obtain a permit from the department of natural resources (DNR) in order to place a water ski platform or water ski jump in a navigable waterway. The proprietor need not obtain a permit if the platform or jump does not interfere with public rights in navigable waters, does not interfere with the rights of other riparian proprietors and is located at a site that ensures adequate water depth and clearance for safe water skiing. If these conditions do not apply, the riparian proprietor must obtain a permit from DNR.

any other

This bill changes the conditions under which a riparian proprietor ~~need not~~ <sup>may</sup> obtain a permit from DNR to place a water ski platform or water ski jump in a navigable waterway. Under the bill, the riparian proprietor ~~need not obtain the permit~~ if the platform or jump is used to prepare for or present a water ski tournament, competition or exhibition and if the placement of the platform or jump is regulated by a local ordinance. ~~As under current law, if the riparian proprietor cannot satisfy these conditions, he or she must obtain a permit from DNR.~~ The bill also eliminates the procedure under which a riparian proprietor <sup>special</sup> may obtain a permit to place a water ski platform or jump in a navigable waterway.

For further information see the *state* 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 <sup>Fix component</sup> SECTION 1. <sup>RA;</sup> 30.135 (1) (a) 1. <sup>; 30.135 (1)</sup> of the statutes is amended to read:

2 30.135 (1) ~~RA;~~ The platform or jump does not interfere with public rights in  
3 navigable waters is used to prepare for or present a water ski tournament,  
4 competition or exhibition.

5 <sup>Fix component</sup> SECTION 2. <sup>RA;</sup> 30.135 (1) (a) 2. <sup>; 30.135 (2)</sup> of the statutes is amended to read:

6 <sup>(2)</sup> 30.135 ~~RA;~~ The placement of the platform or jump does not interfere with  
7 rights of other riparian proprietors is regulated by a local ordinance enacted under  
8 s. 30.77 (3).

9 SECTION 3. 30.135 (1) (a) 3. of the statutes is repealed.

10 SECTION 4. Initial applicability.

11 (1) This act first applies to a water ski platform or a water ski jump that is  
12 placed in a navigable waterway on the effective date of this subsection.

13 (END) ✓

MOVE

SECTION #. RP; 30.135 (1)(b) ✓  
SECTION #. RP; 30.135 (2), (3) and (4) g

Insert 1-1

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3218/1ins.  
RNK.....

Insert 1-1

SECTION 1. 30.135 (title)<sup>x</sup> of the statutes is amended to read:

30.135 (title) ~~Regulation of Requirements for placing~~<sup>✓</sup> water ski  
platforms and jumps.

History: 1997 a. 27.

SECTION 2. 30.135 (1) (title)<sup>x</sup> of the statutes is repealed.

SECTION 3. 30.135 (1) (a) (intro.)<sup>x</sup> of the statutes is renumbered<sup>✓</sup> 30.135 (intro.).

3218/1

Per Dick Sweet  
Pg 2, line 15

before period add, and is consistent w/  
the public trust doctrine

Grothman - can write a D-Note -

JCRAR

to Maggie in Grothman's office -

---

Called Maggie -  
do Senate Bill under Grothman too  
needs by Monday 8-9  
will send over report

ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create ch. NR 328 relating to regulation of water ski platforms and water ski jumps.

FH-29-99(E)

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 30.135, 227.11(2)(a) and 227.24, Stats.

Statutes interpreted: ss. 30.66, 30.69 and 30.135, Stats.

Chapter NR 328 describes the conditions where a water ski jump or platform will require a permit. It explains what constitutes a substantive written objection to a water ski jump or platform and provides a list of reasons that support a substantive written objection. It specifies the contents of a public notice and the process for making a substantive written objection. It details how the department will respond to complaints about an existing water ski jump or platform.

---

SECTION 1. Chapter NR 328 is created to read:

**Chapter NR 328**  
**REGULATION OF WATER SKI JUMPS AND WATER SKI PLATFORMS.**

|           |                           |           |                                      |
|-----------|---------------------------|-----------|--------------------------------------|
| NR 328.01 | Purpose                   | NR 328.06 | Factors constituting substantive     |
| NR 328.02 | Applicability             |           | written objection                    |
| NR 328.03 | Definitions               | NR 328.07 | Complaints to existing structures    |
| NR 328.04 | When permit required      | NR 328.08 | Modifications to existing structures |
| NR 328.05 | Contents of public notice | NR 328.09 | Enforcement                          |

**NR 328.01 Purpose.** These rules are promulgated under s. 30.135, Stats., in order to comply with s. 30.135(2)(a) and (b), Stats., regarding the construction and location of water ski platforms and water ski jumps. Recreational, competition, and exhibition water skiing are incidences of navigation that provide public benefit. Water ski platforms and water ski jumps and their use can also have adverse impacts on other public uses of a waterway, including: fish and wildlife habitat; sediment resuspension; water quality; natural scenic beauty; other navigation; and other riparians. Wisconsin law, emanating from Article IX, Section 1 of the Wisconsin Constitution, provides that public waters are held in trust for "the inhabitants of the state". It is necessary, in administering these statutory provisions, that we recognize the common law and balance these competing public rights in the State's navigable waters.

Note: One of the purposes of this chapter is to assist in the application of the common law to these statutory provisions. The Wisconsin Courts have stated, in a case addressing water skiing uses of a lake, "...no single public interest in the use of navigable waters, though afforded the protection of the public trust doctrine, is absolute. Some public uses must yield if others public uses are to exist at all. The uses must be balanced and accommodated on a case by case basis." State v. Village of Lake Delton, 93 Wis. 2d. 78 (Ct. App., 1979). The Courts have also consistently held that the State of Wisconsin has an affirmative duty to consider the cumulative impacts of activities in our navigable waters on the natural resources and other public uses. In Sterlingworth v. DNR, 205 Wis. 2d 710 (Ct. App. 1996), the Court stated, in reviewing a decision dealing with

the placement of structures in a navigable water, "Whether it is one, nine or ninety boat slips, each slip allows one more boat which inevitably risks further damage to the environment and impairs the public's interest in the lakes. The potential ecological impacts include direct impacts on water quality and sediment quality alteration, as well as direct and indirect influences on flora and fauna. For this very reason, the consideration of "cumulative impact" must be taken into account... Our navigable waters are a precious natural heritage; once gone they disappear forever.... In our opinion, the DNR...carried out its assigned duty as protector of the overall public interest in maintaining one of Wisconsin's most important natural resources."

**NR 328.02 Applicability.** This chapter applies to all water ski jumps and water ski platforms constructed or maintained by riparians on the beds of navigable waters.

**NR 328.03 Definitions.** As used in this chapter:

- (1) "Department" means the department of natural resources.
- (2) "Performance area" means an identifiable area of tow-boat traffic which may include travel areas between the performance platform, ski jump and slalom course.
- (3) "Pull-zone" means a identifiable area adjacent to the water ski platform which originates at the tow-boat starting point and continues to a location where the tow boat has achieved a constant towing speed.
- (4) "Substantive written objection" means a written statement giving specific reasons why a proposed project may violate the statutory provisions applicable to the project and specifying that the person making the objection will appear and present information supporting the objection in a contested case hearing.
- (5) "Water ski jump" means a human-made, inclined-plane structure especially prepared for jumping by skiers towed behind boats.
- (6) "Water ski platform" means a human made structure especially prepared for starting or landing water skiers, and temporary set-up of tow ropes, skis, and other water ski equipment, during public exhibition or competition events.

Note: Water ski platforms are also commonly known as starting docks or performance platforms.

**NR 328.04 When permit required: determination of interference with public rights and riparian proprietor rights.** (1) LEGISLATION. Section 30.135, Stats., allows a riparian proprietor to place a water ski platform or water ski jump in a navigable waterway without obtaining a permit if all of the following requirements are met:

- (a) The platform or jump does not interfere with public rights in navigable waters;
- (b) The platform or jump does not interfere with rights of other riparian proprietors; and
- (c) The platform or jump is located at a site that ensures adequate water depth and clearance for safe skiing.

(2) CRITERIA. The department shall apply the following criteria to determine if a water ski

jump or platform requires a permit. If any of the following conditions are met, the riparian shall submit a permit application to construct the water ski platform or jump.

(a) Interference with navigation and its incidents. Permits will be required where structures and their associated activities are located in areas that meet any of the following conditions:

1. Conflict with other navigational activities or public uses. The site is within 100 feet of a marked swimming area, public boat landing, dock, anchored raft, pier or buoy restricted area.

Note: Except in pickup and drop areas that are marked with regulatory buoys, Sections 30.66 and 30.69, Stats., forbid water skiing within 100 feet of an anchored occupied boat, marked swimming area, public boat landing, dock, raft, pier or buoy restricted area.

2. Poorly lit ski-jumps are detrimental to safe navigation. Water ski jumps not lit from sunset to sunrise by a white light and visible all around the horizon at a distance of at least 2 miles on a dark night with clear atmosphere.

Note: Section 30.61, Stats., prescribes this lighting standard for moored watercraft and other structures.

3. Are of excessive size. The water ski platform is of excessive-size (larger than 720 sq. feet.)

(b) Impacts on littoral zone habitat, flora and fauna –Permits will be required where structures and their associated activities are located in areas that:

1. Are susceptible to sediment resuspension. The pull zone adjacent to the starting platform is located in water depths less than 7-8 feet and the dominant bottom substrate (upper 2 inches) is composed primarily fine sediments (grain-size less than sand). This subdivision does not apply to rivers where substrates are composed of sand or larger grain sizes (cobble, rubble, and gravel).

2. Contain extensive rooted aquatic plant beds. The pull zone adjacent to the starting platform has more than 25% of its area covered by rooted aquatic plant growth.

3. Are inhabited by threatened or endangered species. Survey information indicates that threatened or endangered species are found near the site

4. Are designated as a sensitive area or are spawning or nursery habitats. The structure and its associated activity located in or near spawning/nursery habitats or designated sensitive areas.

(c) Impacts on natural scenic beauty. Permits will be required if development near the site is less than the ch. NR 326 standard. This paragraph does not apply if the site is adjacent to public land such as city or county parks, and agreements with local units of government are formalized.

Note: Section NR 326.055(4)(f)1. identifies developed shorelines as those where there are at least 5 principal structures including at least one on the applicant's property which are located within 500 feet of the proposed water ski platform or jump, and are visually intrusive as viewed from the water.

Note: Less developed areas of the lake or less developed lakes in general will experience greater impacts on natural scenic beauty from the structure and it's activity than other more

developed areas or lakes.

(d) Cumulative impacts. Cumulative impacts of additional structures and their associated activities result in lake-wide changes. Lake morphometry and lake size is an approximate measure to assess cumulative lake impact, which meets Wisconsin appellate court ruling in *Sterlingworth v. DNR*, 205 Wis. 2d 702 (Ct. App., 1996). Permits will be required for water ski jumps or water ski platforms where either:

1. Lake size is between 500 and 1,000 acres and has more than 80% of its surface area shallower than 10 feet in depth, or lake size is between 100 and 499 acres and has more than 50% of its surface area shallower than 10 feet in depth, or lake size is less than 99 acres. This subdivision does not apply to rivers where substrates are composed of sand or larger grain sizes (cobble, rubble, and gravel).

2. The structure is not used by a recognized competition or exhibition ski organization, or the structure is being utilized as a "private deck" when ski shows are not occurring.

Note: While examination of public benefits (or lack of) associated with the structure in of itself is not test of interference with the public interest, analysis of cumulative impact of "non-club/individual riparians" indicates potential interference with the public interest.

(e) Impacts on other riparians. Permits will be required for water ski jumps or water ski platforms where either:

1. The structure is located outside the applicant's riparian zone of influence.

2. Written approval from any riparian adjacent to the performance area is absent.

**NR 328.05 Contents of public notice of proposed water ski jump or water ski platform.** Under s. 30.135(2)(a), Stats., notice of a proposed water ski jump or water ski platform shall include all of the following:

(1) Name and address of the applicant.

(2) Description of the activity and its location.

(3) A statement apprising the public of the opportunity to request a hearing under s. 30.135(2), Stats..

(4) A statement of what constitutes a substantive written objection.

(5) A list of specific reasons that support a substantive written objection.

(6) A statement that the department may decide to proceed on the application without a hearing.

(7) A statement that a decision to proceed on an application without a hearing is subject to review under ch. 227, Stats.

**NR 328.06 Substantive written objection.** (1) PROCESS. Notwithstanding ch. NR 2, any person objecting to a proposed water ski jump or water ski platform may request a contested case hearing by letter to the department employee whose name and address appears in the public notice. The request must be received within 30 days of the publication of the notice. An objection shall

include a written statement giving specific reasons as described in sub. (2) why the proposed activity should not be allowed. The request for hearing shall also include a written statement specifying that the petitioner will appear and present information supporting the objections in a contested case hearing. The department may request additional information to support allegations in the objection prior to granting or denying the hearing request.

(2) **SPECIFIC REASONS.** In order to qualify for a hearing under s. 30.135(2), Stats., an objector shall allege that the water ski jump or water ski platform has an adverse effect on one or more of the following factors:

- (a) Navigation or its incidents, including but not limited to swimming, boating, fishing and hunting.
- (b) Water quality or quantity.
- (c) Fisheries or wildlife.
- (d) Aquatic or terrestrial habitat.
- (e) Shoreline stability.
- (f) Natural scenic beauty.
- (g) Rights of riparians.
- (h) Water safety.
- (i) Other public rights in navigable waters established by law.

**NR 328.07: Complaints about an existing water ski jump or platform.** (1) **PERMITTED WATER SKI JUMP OR PLATFORM.** Existing water ski jumps or platforms may remain if a ch. 30, Stats., permit was issued. Upon receipt of a complaint the department shall conduct an investigation to determine if all permit conditions are met and whether physical or ecological conditions have changed, resulting in a new public interest impact.

(a) If permit conditions are unmet, or physical or ecological conditions have changed, the department shall work with the permittee and the complainant to amend the permit to include conditions to address the public interest impact. If the permit cannot be amended and agreed to by the department, permittee, and complainant, a hearing shall be scheduled.

(b) If permit conditions are met and no physical or ecological conditions have changed the department shall report the findings and conclusion that no further action is required to the permittee and the complainant.

(2) **UNPERMITTED WATER SKI JUMP OR PLATFORM.** When the department receives a complaint and the water ski jump or platform does not have a ch. 30, Stats., permit, the department shall apply the criteria in s. NR328.04 to determine whether a permit is required. Based on the determination, the department shall:

- (a) Notify the complainant and the person who placed the jump or platform of the determination that a permit is not required and that no further action will be taken.
- (b) Require the person who placed the jump or platform to submit a permit application

as required by s. 30.135, Stats.

**NR 328.08 Modification to an existing water ski jump or platform.** If the department is notified that an existing water ski jump or platform has been modified, the department shall conduct an investigation.

(a) If the water ski jump or platform has an existing ch. 30, Stats., permit, the department shall determine whether the permit needs to be amended as in NR 328.07(1)(a).

(b) If the water ski jump or platform does not have an existing ch. 30, Stats., permit, the department shall determine, based on the criteria in s. NR 328.04, whether a permit is required.

**NR 328.09 Enforcement.** If the department determines that a water ski jump or platform is not consistent with requirements of ch. 30, Stats., and the rules adopted there under, it may pursue enforcement under the provision of chs. 23 and 30, Stats..

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)

Today 8-6-99

1999 - 2000 LEGISLATURE

RMR

2

LRB-3218/

RNK:jlg:km

D-Note

Fikmg

1999 BILL

regenerate cat.

1 AN ACT to repeal 30.135 (1) (title), 30.135 (1) (a) 3., 30.135 (1) (b) and 30.135 (2),  
2 (3) and (4); to renumber 30.135 (1) (a) (intro.); to renumber and amend  
3 30.135 (1)(a) 1. and 30.135 (1)(a) 2.; and to amend 30.135 (title) of the statutes;  
4 relating to: the placement of water ski platforms and jumps.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, a riparian proprietor, which is a person who owns waterfront property, must obtain a special permit from the department of natural resources (DNR) in order to place a water ski platform or water ski jump in a navigable waterway. The proprietor need not obtain a permit if the platform or jump does not interfere with public rights in navigable waters, does not interfere with the rights of other riparian proprietors and is located at a site that ensures adequate water depth and clearance for safe water skiing.

This bill changes the conditions under which a riparian proprietor may place a water ski platform or water ski jump in a navigable waterway. Under the bill, the riparian proprietor may place a water ski platform or jump in a navigable waterway without obtaining a permit if the platform or jump is used to prepare for or present a water ski tournament, competition or exhibition ~~and~~, if the placement of the platform or jump is regulated by a local ordinance. The bill also eliminates the procedure under which a riparian proprietor may obtain a special permit to place any other water ski platform or jump in a navigable waterway.

Insert Anal.

and if the placement of the platform or jump is consistent with the public trust in navigable waters that is established under the Wisconsin constitution



**BILL**

For further information see the *state* 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.** 30.135 (title) of the statutes is amended to read:

2           **30.135** (title) ~~Regulation of~~ Requirements for placing water ski  
3 platforms and jumps.

4           **SECTION 2.** 30.135 (1) (title) of the statutes is repealed.

5           **SECTION 3.** 30.135 (1) (a) (intro.) of the statutes is renumbered 30.135 (intro.).

6           **SECTION 4.** 30.135 (1) (a) 1. of the statutes is renumbered 30.135 (1) and  
7 amended to read:

8           30.135 (1) The platform or jump ~~does not interfere with public rights in~~  
9 navigable waters is used to prepare for or present a water ski tournament,  
10 competition or exhibition.

11           **SECTION 5.** 30.135 (1) (a) 2. of the statutes is renumbered 30.135 (2m) and  
12 amended to read:

13           30.135 (2m) The placement of the platform or jump does not interfere with  
14 rights of other riparian proprietors is regulated by a local ordinance enacted under  
15 s. 30.77 (3).

16           **SECTION 6.** 30.135 (1) (a) 3. of the statutes is repealed.

17           **SECTION 7.** 30.135 (1) (b) of the statutes is repealed.

18           **SECTION 8.** 30.135 (2) <sup>and</sup> (3) ~~and (4)~~ of the statutes are repealed.

(END)

✓  
Insert  
2-18  
19 →

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3218/2ins.  
RNK.....

*Insert Anal.*

*ch.*

This bill is introduced as required by s. 227.26 (2) (f), stats, in support of the action of the joint committee for review of administrative rules in suspending NR 328, Wis. Adm. Code, an emergency rule of DNR on July 9, 1999. The suspended rule specified the conditions under which a permit for the placement of a water ski platform or jump is required, the notice requirements regarding permit applications, and the manner in which a person may object to or complain about a water ski platform or jump. The rule also specified the manner in which DNR must proceed upon notice of the modification of a water ski platform or jump and the manner in which DNR may pursue enforcement of the violation of the statutes or administrative rules relating to the placement of water ski platforms and jumps.

Insert 2-18 ✓

SECTION #. CR; 30.135 (3m)

30.135(3m) The placement of the platform or jump is consistent with the public trust in navigable waters that is established under article IX, section 1, of the constitution.

SECTION #. RP; 30.135 (4) ✓

D. Note

3218/2 dn

:Krug:

in order to be placed in a navigable waterway without a permit

~~this draft repeats~~

Under this draft, s. 30.135(1)(a) is renumbered and amended to delete the requirement that a water ski platform or jump must not interfere with public rights in navigable waters. The draft, ~~however~~ <sup>placement of the</sup> as requested, provides that the platform or jump must be consistent with the public trust in navigable waters under the constitution. It seems <sup>ms</sup> that these provisions have the same effect.

Is this consistent with your intent?

If so, you may want to consider simply retaining the language as it

100



currently exists in the statutes.

TNK

12

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3218/2dn  
RNK:kmg:jf

August 6, 1999

Under this draft, s. 30.135 (1) (a) is renumbered and amended to delete the requirement that a water ski platform or jump must not interfere with public rights in navigable waters in order to be placed in a navigable waterway without a permit. The draft, as requested, provides that the placement of the platform or jump must be consistent with the public trust in navigable waters under the constitution. It seems that these provisions have the same effect. Is this consistent with your intent? If so, you may want to consider simply retaining the language as it currently exists in the statutes.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: Robin.Kite@legis.state.wi.us

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

**Date:** 08/06/1999

**To:** Representative Grothman

**Relating to LRB drafting number:** LRB-3218

**Topic**

Regulation of water ski platforms and jumps

**Subject(s)**

Nat. Res. - nav. waters

1. **JACKET** the draft for introduction by JCRAR  
in the **Senate** \_\_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.  
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.  
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robin N. Kite, Legislative Attorney  
Telephone: (608) 266-7291