

**2005 DRAFTING REQUEST**

**Bill**

Received: **08/29/2005**

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Joyce Waldrop**

This file may be shown to any legislator: **NO**

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Buildings/Safety - misc.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Warning mechanisms as alternative to fencing as barriers for ice holes

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**Instructions:**

See attached

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**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>
/?				_____			S&L
/1	mglass 09/19/2005	kfollett 10/03/2005	pgreensl 10/03/2005	_____	sbasford 10/03/2005		State
/2	mglass 10/18/2005	kfollett 10/19/2005	pgreensl 10/19/2005	_____	lemery 10/19/2005		State
/3	mglass 11/16/2005	kfollett 11/17/2005	jfrantze 11/17/2005	_____	sbasford 11/17/2005	lemery 01/04/2006	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

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INTRO.

<END>

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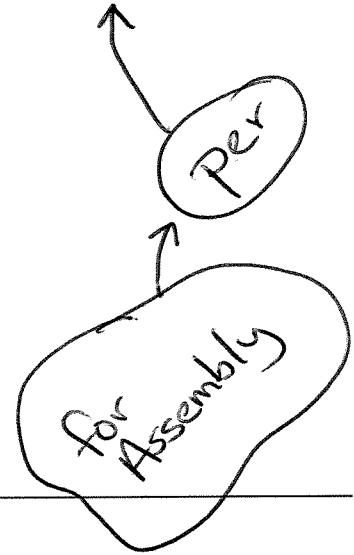
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/2	mglass 10/18/2005	kfollett 10/19/2005	pgreensl 10/19/2005	_____	lemery 10/19/2005		

FE Sent For:

*13 kgf do*  
*11/17*      *11/17*      *11/17*

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FE Sent For:

12/gf  
10/19  
pg  
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<END>  
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/?	mglass	11/jf 10/3	10/3 pg	10/3 set			

FE Sent For:

<END>

**Kite, Robin**

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**From:** LRB.Legal  
**Sent:** Friday, August 26, 2005 1:33 PM  
**To:** Gibson-Glass, Mary; Kite, Robin  
**Subject:** FW: Message from LRB website

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**From:** Waldrop, Joyce  
**Sent:** Friday, August 26, 2005 1:29 PM  
**To:** LRB.Legal  
**Subject:** FW: Message from LRB website

To clarify request below.

DNR must allow for alternatives (other than fencing ice holes) including but not limited to physical or visible barriers.

If you have any question please contact me.

Thanks.

*Joyce Waldrop*

Chief of Staff/Committee Clerk  
Property Rights and Land Management  
Representative Sheryl Albers  
50th Assembly District  
Rm. 15N State Capitol

e-mail [jwaldrop@legis.state.wi.us](mailto:jwaldrop@legis.state.wi.us)  
Ph. 608/266-8531

---

**From:** Waldrop, Joyce  
**Sent:** Friday, August 26, 2005 1:24 PM  
**To:** LRB.Legal  
**Subject:** Message from LRB website

Please draft language to require DNR to authorize use of warning mechanisms, other than fencing, by code, and if such other mechanisms are used, then public notice [either written notice to members, if a lake assn.; and no less than two publication of warning notice in local newspaper with map showing location of the aeration holes – AND, posted warnings with maps showing location of holes at all public access entries of lake is required. PSAs on local cable and radio are encouraged but not required.

*Joyce Waldrop*

Chief of Staff/Committee Clerk  
Property Rights and Land Management  
Representative Sheryl Albers  
50th Assembly District  
Rm. 15N State Capitol

e-mail [jwaldrop@legis.state.wi.us](mailto:jwaldrop@legis.state.wi.us)





State of Wisconsin  
2005 - 2006 LEGISLATURE

10/3

RMR  
1  
LRB-3565/3  
MGG:lgf

in 9/17 soon

soon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: warning devices as barriers around ice holes in lakes.

*Analysis by the Legislative Reference Bureau*

Under current law, a person who creates an ice hole in a lake by aeration of water must either place around the hole a fence made either of fence board or of plastic roll fencing or a barricade consisting of uprights and a continuous rope or similar material. This bill allows a person who is creating an ice hole by aeration to use an invisible warning system if the person provides notification to the public as to the location of the ice hole. To meet these notice requirements, the person must provide written notice to each member of any lake association established for the lake, must twice publish a notice, with a map, in a newspaper most likely to give notice in the area affected, and must post notices, with maps, at each site where public access to the lake is allowed.

^

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:*

History: 1975 c. 296; 1987 a. 27; 1991 a. 269; 1993 a. 133, 213, 491; 1997 a. 167.

2 SECTION 1. 167.26 (2) of the statutes is amended to read:  
3 167.26 (2) Any Instead of the requirements under sub. (1), any person creating  
4 ice holes by aeration of water may, in lieu of the requirements of sub. (1), erect and

1 maintain a ~~barricade~~ barrier around such holes consisting of uprights spaced every  
2 25 feet or less, connected by a continuous rope, cord or similar material placed 3 1/2  
3 feet off the surface of the ice. The connecting rope, cord or similar material shall have  
4 reflectorized ribbon or tape or other reflectorized devices attached to it, so as to be  
5 highly visible, and shall be of sufficient strength to permit retrieval of the ~~barricade~~  
6 barrier following melting of the ice. Any person erecting such ~~barricade~~ a barrier  
7 shall remove the ~~barricade~~ barrier and all parts thereof from the ice or water  
8 immediately after the ice has melted.

9 History: 1975 c. 296; 1987 a. 27; 1991 a. 269; 1993 a. 133, 213, 491; 1997 a. 167.

SECTION 2. 167.26 (2m) of the statutes is created to read:

10 167.26 (2m) Instead of the requirements for fences and other physical barriers  
11 under subs. (1) to (2), any person creating an ice hole by aeration of water on a lake  
12 may use a warning mechanism, which <sup>is</sup> not a physical or visible barrier, if all of the  
13 following apply:

14 (a) The person provides written notice of the location of the ice hole to each  
15 member of any lake association that has been established for the benefit of that lake.

16 (b) The person publishes a class 2 <sup>✓</sup> notice under ch. 985 <sup>✓</sup> showing the location  
17 of the ice hole in the newspaper most likely to give notice to the area affected. The  
18 notice shall include a map showing the location.

19 (c) The person posts warnings with maps showing the location of the ice hole  
20 at each site where public access to the lake is allowed.

21 (END)

## Gibson-Glass, Mary

---

**From:** Patronsky, Mark  
**Sent:** Saturday, October 08, 2005 11:45 AM  
**To:** Gibson-Glass, Mary  
**Cc:** Rep.Albers  
**Subject:** albers ice holes.doc

**Attachments:** albers ice holes.doc

Mary---

I had a meeting with Rep. Albers yesterday (Friday) and discussed the needed changes in LRB-3565/1. I have prepared an outline based on that discussion and am sending it to you for a redraft. The outline is quite different from your draft, and I assume that some changes will be necessary as Rep. Albers continues to develop her ideas for this draft. Please let me know if I can provide more information.

Mark Patronsky



albers ice holes.doc  
(27 KB)

**Rep. Albers**

***Lakes—aeration holes in icebound lakes***

***Modification to LRB-3565/1***

**Create s. 167.26 (2m), stats.**

**Provide for fences, barriers or markings that are an alternative to subs. (1) and (2) [not (1) to (2)].**

**Applies when an ice hole is created**

***By an inland lake protection and rehabilitation district or a lake association as described in s. 779.70***

***By aeration for purposes of a fish enhancement project that is approved by the Department of Natural resources***

**DNR shall by rule do the following**

***Authorize alternative methods of fencing, barriers or markings for these ice holes***

***Require public notification by the lake district or association if the alternative methods are used***

**Notice is intended to warn public that the alternative methods are in use**

**Public notice to include any one or more of the following**

**Notices published in a newspaper throughout the season**

**Public service announcements on local television or radio**

**Notices posted at public access points on the lake**

**Notice mailed to lake district or lake association members**

**DNR rules to specify which methods of notice must be provided**

**Lake district or association may use alternative methods and notice, or may use methods in sub. (1) or (2)**

***If lake district or association uses any of the methods in sub. (1), (2) or (2m), the lake district or association is not liable for any injury to or death of any person or damage to any property that results from an ice hole subject to this subsection***



State of Wisconsin  
2005 - 2006 LEGISLATURE

RMR  
LRB-3565/1r 2  
MGG:kjf:pg

2005 BILL

Wed  
Moon

a different type of barrier

Regen

1 AN ACT to amend 167.26 (2); and to create 167.26 (2m) of the statutes; relating  
2 to: warning devices as barriers around ice holes in lakes <sup>and regarding</sup>  
<sub>rule-making authority</sub>

**Analysis by the Legislative Reference Bureau**

Under current law, a person who creates an ice hole in a lake by aeration of water must either place around the hole a fence made either of fence board or of plastic roll fencing or a barricade consisting of uprights and a continuous rope or similar material. This bill allows a person who is creating an ice hole by aeration to use an invisible warning system if the person provides notification to the public as to the location of the ice hole. To meet these notice requirements, the person must provide written notice to each member of any lake association established for the lake, must twice publish a notice, with a map, in a newspaper most likely to give notice in the area affected, and must post notices, with maps, at each site where public access to the lake is allowed.

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

INS  
ANL

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

3 SECTION 1. 167.26 (2) of the statutes is amended to read:  
4 167.26 (2) Any Instead of the requirements under sub. (1), any person creating  
5 ice holes by aeration of water may, in lieu of the requirements of sub. (1), erect and

BILL

- 2 -  
INS 2-11

1 maintain a ~~barriade~~ barrier around such holes consisting of uprights spaced every  
2 25 feet or less, connected by a continuous rope, cord or similar material placed 3 1/2  
3 feet off the surface of the ice. The connecting rope, cord or similar material shall have  
4 reflectorized ribbon or tape or other reflectorized devices attached to it, so as to be  
5 highly visible, and shall be of sufficient strength to permit retrieval of the ~~barriade~~  
6 barrier following melting of the ice. Any person erecting such ~~barriade~~ a barrier  
7 shall remove the ~~barriade~~ barrier and all parts thereof from the ice or water  
8 immediately after the ice has melted.

9 SECTION 2. 167.26 (2m) of the statutes is created to read:

10 167.26 (2m) <sup>(a)</sup> Instead of the requirements for ~~fences and other physical barriers~~ <sup>barriers specified</sup>

11 under subs. (1) ~~or~~ (2), any person creating an ice hole by aeration of water on a lake  
12 ~~may use a warning mechanism, which is not a physical or visible barrier, if all of the~~  
13 ~~following apply~~ <sup>and</sup> ~~another type of barrier~~ <sup>barriers specified under the act</sup>  
~~following apply~~ <sup>INS 2-13</sup>

14 (a) The person provides written notice of the location of the ice hole to each  
15 member of any lake association that has been established for the benefit of that lake.

16 (b) The person publishes a class 2 notice under ch. 985 showing the location of  
17 the ice hole in the newspaper most likely to give notice to the area affected. The notice  
18 shall include a map showing the location.

19 (c) The person posts warnings with maps showing the location of the ice hole  
20 at each site where public access to the lake is allowed.

21 → insert 2-20

(END)

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3565/lins  
MGG:kjf:pg

X #  
X  
X

**Insert ANL**

This bill allows a public inland lake protection and rehabilitation districts (lake districts) and certain nonprofit membership corporations organized in the state that create ice holes in lakes by aerating water to use barrier systems than the ones described above if they comply with rules and requirements established by DNR. These alternative barriers are allowed only if an ice hole is being created for the purpose of a fish habitat improvement project that has been approved by DNR. The lake district or organization creating the ice hole must give public notice, the area most likely to be affected by the placement of the ice hole. The methods established by DNR rule for giving such notice include public notices in newspapers or on television or radio, notices posted at access sites on the lake, and notices mailed to each members of the lake district or corporation creating the ice hole. DNR specifies one or more methods of notice that must be given for each ice hole created.

to each member of the  
property owners  
other  
different types  
districts of the Department of Natural Resources  
to

1

**Insert 2-11**

2

no # any public inland lake protection and rehabilitation district or any nonprofit, membership corporation, as described in s. 779.70 (1), that is creating

4

**Insert 2-12 13**

5

no # for purposes of fish habitat improvement project that has been approved by the department of natural resources may use an alternative type of barrier if the district or corporation uses the types of barriers and markings and the methods of notice as required under pars. (b) to (c).

8

9

(b) The department shall promulgate rules specifying the types of fences, barriers, or markings that are allowed for barricading the ice holes authorized under par. (a).

11

12

(c) The department shall promulgate rules specifying the methods of notice that a public inland lake protection and rehabilitation district or any nonprofit, membership corporation, as described in s. 779.70 (1), may use to warn the public as to the location of an ice hole on a given lake. The methods of notice shall include the following:

16

a  
resources  
fences  
or  
of natural resources  
of natural resources



1 Publishing one or more notices <sup>describing</sup> showing the location of the ice hole in the  
2 newspaper most likely to give notice to the area to be affected by the creation of the  
3 ice hole.

4 2. Broadcasting public service announcements on local television or radio in the  
5 area most likely to be affected by the creation of the ice hole.

6 3. Posting notice<sup>s</sup> at public access sites on the lake for which the ice hole is  
7 created.

8 (c) The rules shall require that the notices described under par. (b) 1. and 2. be  
9 published or broadcasted throughout the time when the lake is icebound.

10 (d) For each ice hole created under this subsection, the department of natural  
11 resources shall specify one or more of the methods of notice promulgated under par.

12 (c) that the public inland lake protection and rehabilitation district or corporation,  
13 as described in ~~as described in~~ s. 779.70 (1), <sup>must</sup> use.

14 **Insert 2-20**

15 SECTION ~~11~~ 167.26 (3) of the statutes is amended to read:

16 167.26 (3) Persons barricading or marking ice holes in the manner specified in  
17 this section shall not be liable for ~~damages suffered by persons who enter the any~~  
18 injury to or death of any person or damage to any property that results from creating  
19 an ice hole that is barricaded or marked area in a manner authorized under this  
20 section.

History: 1975 c. 296; 1987 a. 27; 1991 a. 269; 1993 a. 133, 213, 491; 1997 a. 167.

x 4. Mailing written notices<sup>s</sup> to each <sup>lake</sup> <sup>owner of property</sup> <sup>property owner</sup> member of within  
the public inland ~~to~~ protection and rehabilitation district or corporation <sup>creating</sup> that is creating  
the ice hole. To each member of the

**Gibson-Glass, Mary**

---

**From:** Waldrop, Joyce  
**Sent:** Tuesday, October 25, 2005 9:24 AM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: Ice holes

Mary,

Here are the changes requested by Represented to her proposal regarding ice holes LRB 3565. If you have any questions I will try to answer them.

Respectfully,

Joyce Waldrop  
Chief of Staff/Committee Clerk  
jwaldrop@legis.state.wi.us

Representative Sheryl Albers  
50th Assembly District  
Property Rights and Land Management  
15 North State Capitol  
PO Box 8952  
Madison, WI 53708  
Ph. 608/266-8531  
Fax 608/282-3650

---

**From:** Sheryl Albers [mailto:skalbers@mwt.net]  
**Sent:** Sunday, October 23, 2005 1:46 PM  
**To:** Waldrop, Joyce  
**Subject:** RE: Ice holes

Redraft of LRB-3565/2:

Page 1, line 2: delete the material after the colon and substitute: "warning methods for ice holes in lakes and".

Page 2, lines 18 and 19: delete those lines and substitute: "alternative warning methods if the district or corporation uses the types of warning methods in rules under pars. (b) and (c)."

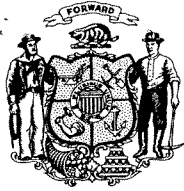
Page 3, lines 2 and 3: delete those lines and substitute: "alternative warning methods for the ice holes described under par. (a). The warning methods shall allow for the use of high visibility warning methods and warning methods that are easy to recover after the ice has melted."

Page 3, line 20: after "broadcasting" insert "periodically".

Page 3, line 24: after "use" insert ", in order to provide effective warnings".

11/16/2005

Insert language to encompass fish hatcheries, water quality, and fish habitat, and weed reduction improvement projects



detrimental

Fri.

## 2005 BILL

Water quality projects may include projects that improve fish habitat or that reduce aquatic plants.

warning methods  
↑ use twice

Regen

1 AN ACT to amend 167.26 (2) and 167.26 (3); and to create 167.26 (2m) of the  
2 statutes; relating to: warning devices as barriers around ice holes in lakes and  
3 granting rule-making authority.

### Analysis by the Legislative Reference Bureau

Under current law, a person who creates an ice hole in a lake by aeration of water must either place around the hole a fence made either of fence board or of plastic roll fencing or a barricade consisting of uprights and a continuous rope or similar material.

This bill allows public inland lake protection and rehabilitation districts (lake districts) and certain nonprofit membership corporations organized in the state that create ice holes in lakes by aerating water to use barrier systems other than the ones described above if they comply with rules and requirements established by the Department of Natural Resources (DNR). These alternative barriers are allowed only if an ice hole is being created for the purpose of a fish habitat improvement project that has been approved by DNR. The lake district or organization creating the ice hole must give public notice to the area most likely to be affected by the placement of the ice hole. The methods established by DNR rule for giving such notice include public notices in newspapers or on television or radio, notices posted at access sites on the lake, and notices mailed to each lake district property owner or to each member of the corporation creating the ice hole. DNR specifies one or more methods of notice that must be given for each ice hole created.

water  
quality or fish habitat project

**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:*

(lg)  
INSERT  
2-1

1 SECTION 1. 167.26 (2) of the statutes is amended to read:

2 167.26 (2) ~~Any~~ Instead of the requirements under sub. (1), any person creating  
3 ice holes by aeration of water may, ~~in lieu of the requirements of sub. (1),~~ erect and  
4 maintain a barriade <sup>PLAIN</sup> ~~barrier~~ around such holes consisting of uprights spaced every  
5 25 feet or less, connected by a continuous rope, cord or similar material placed 3 1/2  
6 feet off the surface of the ice. The connecting rope, cord or similar material shall have  
7 reflectorized ribbon or tape or other reflectorized devices attached to it, so as to be  
8 highly visible, and shall be of sufficient strength to permit retrieval of the barriade  
9 ~~barrier~~ following melting of the ice. Any person erecting such barriade a barrier  
10 shall remove the barriade ~~barrier~~ and all parts thereof from the ice or water  
11 immediately after the ice has melted.

12 SECTION 2. 167.26 (2m) of the statutes is created to read:

13 167.26 (2m) (a) Instead of the requirements ~~for barriers specified~~ under subs.  
14 (1) and (2), any public inland lake protection and rehabilitation district or any  
15 nonprofit membership corporation, ~~as described in s. 779.70 (1),~~ that is creating an  
16 ice hole by aeration of water on a lake for purposes of a fish <sup>as a water quality</sup> ~~habitat improvement~~ <sup>project</sup>  
17 ~~project~~ that has been approved by the department of natural resources may use an  
18 alternative <sup>warning methods</sup> type of barrier, ~~if the district or corporation uses the types of fences,~~  
19 ~~barriers, or markings and the methods of notice as required under pars. (b) to (c).~~ <sup>those</sup> ~~and~~

that  
methods & comply  
with the rules promulgated under

**BILL**

*The warning methods shall allow for the use of high visibility methods and structures or items that are easily*

1 (b) The department of natural resources shall promulgate rules specifying the  
2 ~~types of fences, barriers, or markings that are allowed for barricading the ice holes~~  
3 authorized ~~under par. (a).~~ *types of warning methods that may be used*

*recovered  
recov-  
ered  
after*

4 (c) The department of natural resources shall promulgate rules specifying the  
5 methods of notice that a public inland lake protection and rehabilitation district or  
6 any nonprofit membership corporation, ~~as described in s. 779.70 (1),~~ may use to  
7 warn the public as to the location of an ice hole on a given lake. The methods of notice  
8 shall include the following:

*the  
ice  
has  
melted*

9 1. Publishing one or more notices describing the location of the ice hole in the  
10 newspaper most likely to give notice to the area to be affected by the creation of the  
11 ice hole.

12 2. Broadcasting public service announcements on local television or radio in the  
13 area most likely to be affected by the creation of the ice hole.

14 3. Posting notices at public access sites on the lake for which the ice hole is  
15 created.

16 4. Mailing written notices to each owner of property *nonprofit membership*  
17 lake protection and rehabilitation district or to each member of the corporation that  
18 is creating the ice hole.

19 (d) The rules shall require that the notices described under par. (b) 1. and 2.  
20 be published or broadcasted *periodically* throughout the time when the lake is icebound.

21 (e) For each ice hole created under this subsection, the department of natural  
22 resources shall specify one or more of the methods of notice promulgated under par.

23 (c) that the public inland lake protection and rehabilitation district or *nonprofit memba-  
ship* corporation  
24 as described in s. 779.70 (1) must use *in order to provide effective*

*warnings.*

25 **SECTION 3.** 167.26 (3) of the statutes is amended to read:



**2005-2006 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3565/3ins  
MGG:.....

**Insert 2-1**

**SECTION 1.** 167.26 (1) of the statutes is renumbered 167.26 (1g).

**SECTION 2.** 167.26 (1b) of the statutes is created to read:

**167.26 (1b)** In this section:

(a) Nonprofit membership corporation” means a corporation as described in s. 779.70 (1).

(b) Water quality project” means a project that improves water quality, including a project that improves fish habitat or the quality of water in a fish hatchery, or that reduces the presence of detrimental aquatic plants.

**SECTION 3.** 167.26 (1m) of the statutes is amended to read:

**167.26 (1m)** Instead of the requirements under sub. (1) (1g), any person who removes ice or causes its removal from Lake Butte des Morts, Lake Poygan, Lake Winnebago or Lake Winneconne for the spearing of sturgeon may mark the opening made by the removal without using fencing if the person uses at least 2 strips of wood that protrude at least 3 feet above the surface of the ice. The strips of wood may not exceed approximately 1.5 inches in width and approximately 0.25 inch in thickness.

**History:** 1975 c. 296; 1987 a. 27; 1991 a. 269; 1993 a. 133, 213, 491; 1997 a. 167.