



2013 ASSEMBLY BILL 352

September 5, 2013 – Introduced by Representatives BIES, A. OTT, T. LARSON, CZAJA, TITTL, WILLIAMS and STROEBEL, cosponsored by Senators LASEE, KEDZIE, TIFFANY and MILLER. Referred to Committee on Natural Resources and Sporting Heritage.

1 **AN ACT** *to amend* 30.206 (1) (a) and 95.60 (2) (a) (intro.); and *to create* 29.733
2 (3), 30.01 (4o), 30.12 (3) (b) and 95.60 (9) of the statutes; **relating to:** allowing
3 placement of net pens in navigable waters under a statewide general permit
4 and exceptions for certain requirements that apply to fish farms.

Analysis by the Legislative Reference Bureau

Under current law, no person may place a structure upon the bed of any navigable water where no bulkhead line has been established or beyond a lawfully established bulkhead line unless the Department of Natural Resources (DNR) has issued an individual or general permit allowing the structure. Certain structures, including a fish crib intended to improve fish habitat, certain piers and wharves, and a biological shore erosion control structure, are exempted from these permitting requirements if they are not in an area of special natural resource interest and do not interfere with riparian rights.

This bill requires DNR to issue a statewide general permit that authorizes a person to place a net pen in a navigable water as long as the net pen meets certain conditions. The bill defines a net pen as an enclosure placed in a body of water and used to hold or rear fish. The bill specifies that a person may place a net pen only for noncommercial purposes. The fish must be stocked, and released into the water, by DNR or by a person who has a fish stocking permit. Finally, the bill requires that the fish held or reared in the net pen be released into the same body of water into which the net pen is placed. The bill specifies that the general permit may not authorize the placement of a net pen for a period of more than eight weeks and

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provides that the general permit may not limit the number of times that a person may place a net pen in the waters of this state.

Under current law, the Department of Agriculture, Trade and Consumer Protection (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. Current law requires most persons who bring fish or fish eggs into this state for the purpose of introduction into the waters of this state 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.

This 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. 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.

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. This bill creates an exemption to this 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.

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.** 29.733 (3) of the statutes is created to read:

2 29.733 (3) This section does not apply to a person who places a net pen in a
3 natural body of water for the purpose of holding or rearing fish in accordance with
4 a general permit issued under s. 30.12 (3) (b).

5 **SECTION 2.** 30.01 (4o) of the statutes is created to read:

6 30.01 (4o) “Net pen” means an enclosure placed in a body of water and used
7 to hold or rear fish.

8 **SECTION 3.** 30.12 (3) (b) of the statutes is created to read:

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1 30.12 (3) (b) 1. The department shall issue a statewide general permit under
2 s. 30.206 that authorizes a person to place a net pen in the waters of this state if all
3 of the following apply:

4 a. The net pen is placed for the purpose of holding or rearing fish for
5 noncommercial purposes.

6 b. The fish held or reared in the net pen are stocked by the department or by
7 a person who is in compliance with s. 29.736.

8 c. The fish held or reared in the net pen are released by the department or by
9 a person who is in compliance with s. 29.736 into the same body of water in which
10 the net pen is placed.

11 2. A general permit issued for the purpose described in this section shall
12 authorize a person to place a net pen in the waters of this state for a period not to
13 exceed 8 weeks. The general permit may not limit the number of times that a person
14 may place a net pen in the waters of this state under the authority of that general
15 permit.

16 **SECTION 4.** 30.206 (1) (a) of the statutes is amended to read:

17 30.206 (1) (a) The department shall issue the statewide general permits
18 required under ss. 30.12 (3) (a) and (b), 30.123 (7), 30.19 (3r), and 30.20 (1t) (a).

19 **SECTION 5.** 95.60 (2) (a) (intro.) of the statutes is amended to read:

20 95.60 (2) (a) (intro.) Except as provided in sub. (9) and par. (e), no person may
21 bring any fish or fish eggs into this state for the purpose of introduction into the
22 waters of the state, of use as bait or of rearing in a fish farm without an annual permit
23 issued by the department.

24 **SECTION 6.** 95.60 (9) of the statutes is created to read:

