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CHAPTER 454

AN ACT to create 30.19 of the statutes, relating to changing of stream courses and straightening of streams, and providing penalties.

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

30.19 of the statutes is created to read:

30.19 CHANGING OF STREAM COURSES. (1) PERMIT REQUIRED. No person shall change the course of or straighten a navigable stream without a permit therefor having been granted pursuant to this section or without otherwise being expressly authorized by statute to do so. Any person violating this section shall be fined not more than \$1,000 or imprisoned not more than 6 months, or both.

(2) **APPLICATIONS.** Applications for permits required by this section shall be made to the public service commission upon forms prescribed by it. Applications shall contain such information as the commission reasonably requires to enable it to act on the application.

(3) **GRANTING OF PERMIT.** Upon application therefor, the public service commission shall grant a permit to the owner of any land to change the course of or straighten a navigable stream on such land, if such change or straightening will improve the economic or aesthetic value of the owner's land and will not adversely affect the flood flow capacity of the stream or otherwise be detrimental to public rights or to the rights of other riparians located on the stream. If the commission finds that the rights of such riparians will be adversely affected, it may grant the permit only with their consent. Such permit may be granted on the commission's own motion after its own investigation or after public hearing and after giving prior notice of such investigation or hearing to the conservation commission. If the conservation commission requests a public hearing, the public service commission shall not act on the application for the permit until such hearing has been held.

(4) **LIABILITY FOR NEGLIGENCE.** No common law liability, and no statutory liability which may be provided elsewhere in these statutes, for dam-

ages resulting from the changing of the course of or from the straightening of a stream is in any manner affected by this section, nor does this section create any liability on the part of the state for any such damages, but a person who changes the course of a stream or straightens a stream in accordance with a permit granted pursuant to this section is presumed to have exercised due care in such changing or straightening.

(5) RESTORATION OF UNLAWFULLY STRAIGHTENED STREAM. The public service commission, upon its own finding that the course of a stream has been changed or the stream straightened in violation of this section and that it is in the public interest to restore such stream to its former course, may order the person who straightened or changed the course of the stream in violation of this section to restore such stream to its former course. If the person fails to comply, or in good faith to begin to comply, with such order within the time specified therein, or in the case of appeal, within 20 days after final judgment, he is subject to a forfeiture of not more than \$25 for each day such failure to comply, or begin to comply, continues.

(6) CEASE AND DESIST ORDER. The commission may order any person violating or threatening to violate this section to cease and desist from such violation or threatened violation. If such person fails to comply with such order within 5 days after issuance thereof, the commission may cause an action for injunction to be commenced in a court of competent jurisdiction to have such order enforced. Such order is not reviewable under ch. 227.

(7) The provisions of this section shall not apply to municipal or county-owned lands in counties having a population of 500,000 or more.

Approved September 9, 1961.
