

1977 Assembly Bill 618

Date published: October 31, 1977

## CHAPTER 130, Laws of 1977

AN ACT to amend 30.12 (1) (intro.); and to create 29.29 (5), 30.12 (4) and 227.01 (11) (y) of the statutes, relating to administrative coordination of the activities of the departments of transportation and natural resources in connection with state highway bridge construction and maintenance.

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

**SECTION 1. Legislative findings and declaration of intent.** The legislature has the responsibility for providing protection of the state's valuable water, fish and wildlife resources, while at the same time providing the citizens of Wisconsin with an adequate, safe and economical highway transportation system. The legislature recognizes that the construction, reconstruction, maintenance and repair of highways and bridges will inevitably result in some encroachment upon the beds of navigable waters. Such limited encroachment for statewide public highway and bridge purposes is hereby declared to be consistent with the public trust over navigable waters administered by the legislature if accomplished in a manner that minimizes adverse environmental impact. Therefore, the legislature directs the departments of natural resources and transportation to consult and cooperate with each other for the purpose of developing a program for bridge and highway construction and maintenance that is consistent with the assigned program responsibilities of each agency, assuring that potential adverse effects in the state's waters, fish and wildlife are minimized to the extent practicable in the execution of the state's bridge and highway construction and maintenance program.

**SECTION 2.** 29.29 (5) of the statutes is created to read:

29.29 (5) DEPARTMENT OF TRANSPORTATION ACTIVITIES; EXCEPTION. This section does not apply to any activities carried out under the direction and supervision of the

state department of transportation in connection with the construction, reconstruction, maintenance and repair of highways and bridges accomplished in accordance with s. 30.12 (4).

SECTION 3. 30.12 (1) (intro.) of the statutes is amended to read:

30.12 (1) GENERAL PROHIBITION. (intro.) ~~Unless~~ Except as provided under sub. (4), unless a permit has been granted by the department pursuant to statute or the legislature has otherwise authorized structures or deposits in navigable waters, it is unlawful:

SECTION 4. 30.12 (4) of the statutes is created to read:

30.12 (4) DEPARTMENT OF TRANSPORTATION ACTIVITIES; EXEMPTION; INTERDEPARTMENTAL COORDINATION OF ENVIRONMENTAL PROTECTION MEASURES. (a) Activities affecting waters of the state as defined in s. 144.01 that are carried out under the direction and supervision of the department of transportation in connection with highway and bridge design, location, construction, reconstruction, maintenance and repair are not subject to the prohibitions or permit or approval requirements specified under s. 29.29, 30.11, 30.12, 30.195, 30.20, 59.971, 87.30 or ch. 144 or 147. However, at the earliest practical time prior to the commencement of such activities, the department of transportation shall notify the department of the location, nature and extent of the proposed work that may affect the waters of the state.

(b) The exemption under par. (a) does not apply unless the activity is accomplished in accordance with interdepartmental liaison procedures established by the department and the department of transportation for the purpose of minimizing the adverse environmental impact, if any, of the activity.

(c) If the department determines that there is reasonable cause to believe that an activity being carried out under this subsection is not in compliance with the environmental protection requirements developed through interdepartmental liaison procedures, it shall notify the department of transportation. If the secretary and the highway commission, in consultation with the secretary of transportation, are unable to agree upon the methods or time schedules to be used to correct the alleged noncompliance, the secretary, notwithstanding the exemption provided in this subsection, may proceed with enforcement actions as the secretary deems appropriate.

(d) The department of transportation and the department shall exchange information and cooperate in the planning and carrying out of such activities in order to alleviate, to the extent practical under the circumstances, any potential detrimental encroachment on the waters of the state.

(e) Except as may be required otherwise under s. 1.11, no public notice or hearing is required in connection with any interdepartmental consultation and cooperation under this subsection.

SECTION 5. 227.01 (11) (y) of the statutes is created to read:

227.01 (11) (y) Prescribes measures to minimize the adverse environmental impact of bridge and highway construction and maintenance.

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