

1987 Assembly Bill 195

Date of enactment: April 23, 1988
Date of publication: May 2, 1988

1987 Wisconsin Act 397

(Vetoed in Part)

AN ACT to renumber 30.53; to renumber and amend 30.54; to amend 30.55; and to create 20.370 (8) ~~(es)~~ and (ez), 30.53 to 30.539, 30.54 to 30.547 and 30.553 of the statutes, relating to creating a boat titling program, making appropriations, ~~granting rule-making authority~~ and providing penalties.

Vetoed
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in Part

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

SECTION 1. 20.005 (3) (schedule) of the statutes at the appropriate place, insert the following amounts for the purposes indicated:

| | 1987-88 | 1988-89 |
|-----------------------------|-----------|---------|
| 20.370 Natural resources, | | |
| Department of | | |
| (8) ADMINISTRATIVE SERVICES | | |
| (es) Boat titling--fees | SEC B -0- | -0- |

Vetoed
in Part

Vetoed in Part SECTION 2. 20.370 (8) ~~(es)~~ and (ez) of the statutes are created to read:

Vetoed in Part 20.370 (8) ~~(es)~~ Boat titling -- ~~Yes~~. Biennially, from the moneys received under s. 30.537 (4), the amounts in the schedule for boat titling.

(ez) Boat titling -- administrative support; federal funds. All moneys received from the federal government for the boat titling program, to be used for the purposes for which made and received.

SECTION 3. 30.53 of the statutes is renumbered 30.523.

SECTION 4. 30.53 to 30.539 of the statutes are created to read:

30.53 Certificate of origin; requirements; contents.

(1) REQUIREMENTS. No manufacturer, importer, dealer or other person may sell or otherwise dispose of a new boat to a dealer, to be used by the dealer for purposes of display and resale, without delivering to the dealer a manufacturer's or importer's certificate of origin executed in accordance with this section and with those assignments on the certificate as are necessary to show title in the purchaser of the boat. No dealer may purchase or acquire a new boat without obtaining from the seller of the boat the manufacturer's or importer's certificate of origin.

(2) CONTENTS. A manufacturer's or importer's certificate of origin of a boat shall contain, in the form and together with the information the secretary requires, the following information:

(a) A description of the boat, including, if applicable, the make, year, length, series or model, hull type and hull identification number of the boat and, for a

boat with an inboard motor, the make of the engine and the engine serial number.

(b) Certification of the date of transfer of the boat to a distributor, dealer or other transferee, and the name and address of the transferee.

(c) Certification that this transaction is the first transfer of the new boat in ordinary trade and commerce.

(d) The signature and address of a representative of the transferor.

(3) ASSIGNMENT. An assignment of a manufacturer's or importer's certificate of origin shall be printed on the reverse side of the manufacturer's or importer's certificate of origin in the form prescribed by the secretary. The assignment form shall include the name and address of the transferee, a certification that the boat is new and a warranty that the title at the time of delivery is subject only to the liens and encumbrances that are set forth and described in full in the assignment. Nothing in this subsection requires the transferee to apply for a certificate of title under s. 30.533.

(4) NONAPPLICABILITY. Subsection (3) does not apply to or affect:

(a) A lien given by statute or rule of law to a supplier of services or materials for the boat.

(b) A lien given by statute to the United States, this state or any political subdivision of this state.

(c) A security interest in a boat created by a manufacturer or dealer who holds the boat for sale, which shall be governed by the applicable provisions of ch. 409.

30.531 Certificate of title; requirements; exemptions.

(1) CERTIFICATE. The owner of a boat subject to registration in this state, whether or not the boat is operated on the waters of this state, shall make application for certificate of title for the boat under the following circumstances:

(a) If the owner has newly acquired the boat, he or she shall make application under s. 30.533.

(b) If the owner applies for registration of a boat without holding a valid certificate of title previously issued to that owner by the department for the boat, he or she shall at the same time apply for a certificate of title.

(2) PREREQUISITE TO REGISTRATION. Except as provided in sub. (3), an applicant's eligibility for a certificate of title is a prerequisite to registration of the boat. If the applicant for registration holds a valid certificate of title previously issued to the applicant by the department for the boat, that is prima facie evidence of ownership of the boat and the applicant need not apply for a new certificate of title on application for registration.

(3) EXEMPTION. (a) *Boats exempt from registration requirements.* A boat is exempt from both the certificate of origin and certificate of title requirements of this chapter if it is exempt under s. 30.51 (2) from the certificate of number or registration requirements of this chapter.

(b) *Boats under 16 feet.* A boat is exempt from both the certificate of origin and certificate of title requirements of this chapter if it is less than 16 feet in length.

(c) *Boats purchased by nonresidents.* A nonresident who purchases a boat in this state and who intends to title and register the boat in another state is not required to apply for a certificate of title under this chapter. A nonresident who purchases a boat in this state may apply for a certificate of title under this chapter.

30.533 Application for certificate of title; hull and engine identification numbers.

(1) CERTIFICATE; CONTENTS. An application for a certificate of title shall be made to the department upon a form prescribed by it and shall be accompanied by the required fee. Each application for certificate of title shall contain the following information:

(a) The name and address of the owner.

(b) The name and address of the previous owner.

(c) A description of the boat, including, if applicable, the make, year, length, series or model, hull type and hull identification number of the boat, the make of the engine and the engine serial number for a boat with an inboard motor, and any other information which the department may reasonably require for proper identification of the boat.

(d) If the boat is a new boat being registered for the first time, the signature of a dealer authorized to sell such new boat and the manufacturer's certificate of origin. Such certificate of origin shall contain such information as is prescribed by the department.

(e) If the boat is a used boat which was last previously registered in another jurisdiction, the applicant shall furnish any certificate of ownership issued by the other jurisdiction and a statement pertaining to the title history and ownership of the boat, such statement to be in the form the department prescribes.

(f) If the boat is a used boat which was last previously registered or titled in this state, or both, the applicant shall furnish any certificate of number or other evidence of registration and any certificate of title previously issued by this state and a statement pertaining to the title history and ownership of the boat, such statement to be in the form the department prescribes.

(g) A signed statement by the applicant that the applicant has inspected the hull identification number and the engine serial number, if any, to ensure that such numbers conform with the numbers recorded on the application for a certificate of title.

(h) Any further evidence of ownership which may reasonably be required by the department to enable it to determine whether the owner is entitled to a certificate of title.

(2) HULL IDENTIFICATION NUMBER. If the boat contains a permanent hull identification number placed on the boat by the manufacturer of the boat, this number shall be used as the hull identification number. If there is no manufacturer's hull identification number, or if the manufacturer's hull identification number has been removed, obliterated or altered, the application for certificate of title shall so state and the secretary shall assign a hull identification number to the boat. The assigned hull identification number shall be permanently affixed to, or imprinted on, the starboard side of the transom of the boat to which the hull identification number is assigned.

(3) ENGINE SERIAL NUMBER. If the boat has an inboard motor which contains an engine serial number, this number shall be recorded on the certificate of title as the engine serial number. If the boat has an inboard motor which does not contain an engine serial number, or if the engine serial number has been removed, obliterated or altered, the application for certificate of title shall so state and the certificate of title shall not contain an engine serial number.

30.535 Department to examine records. Before issuing a certificate of title for a boat, the department shall check the application against the records of stolen boats in the national crime information center.

30.537 Certificate of title; issuance, records, fees.

(1) ISSUANCE. The department shall file each application for certificate of title received by it and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue and deliver a certificate to the owner of the boat.

(2) RECORDS. The department shall file and retain for at least 5 years a record of all applications for certificate of title, including, if applicable, the manufac-

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turer's certificate of origin, and all certificates of title issued by it:

- (a) According to title number.
- (b) According to hull identification number or engine serial number or both.
- (c) Alphabetically, according to name of owner.
- (d) In any other manner which the department determines to be desirable.

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(3) ~~SEARCH FEE.~~ The department shall conduct a title search upon the request of an applicant for a certificate of title and may charge a fee to be established by rule which shall approximate the cost to the department of conducting a file search of boat title records.

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(4) ~~TITLE FEES.~~ The department shall charge fees to be established by rule which shall approximate the cost to the department of issuing the following certificates of title:

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- (a) For filing an application for the first certificate of title, a fee to be paid by the owner of the boat.
- (b) For a certificate of title after a transfer, a fee to be paid by the owner of the boat.
- (c) For a replacement certificate of title, a fee to be paid by the owner of the boat.
- (d) For processing applications for certificates of title which have a special handling request for fast service, a fee to be paid by the person so requesting.

30.539 Contents of certificate of title. (1) ~~INFORMATION.~~ Each certificate of title issued by the department shall contain:

- (a) The name and address of the owner.
- (b) The title number assigned to the boat.
- (c) A description of the boat, including, if applicable, the make, year, length, series or model, hull type and hull identification number of the boat and, for a boat with an inboard motor, the make of the engine and the engine serial number.
- (d) Any other data which the department deems pertinent and desirable.

(2) ~~FORMS.~~ The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, or insurance company, and may contain forms for application for a certificate of title by a transferee.

SECTION 5. 30.54 of the statutes is renumbered 30.549 and amended to read:

30.549 (title) Transfer of ownership of boats with a certificate of title, certificate of number or registration.

(1) **DUTY OF SELLER.** If the owner of a boat covered by a valid certificate of title and a valid or expired certificate of number or registration issued by this state transfers all or any part of ~~his or her~~ the owner's interest in the boat, other than by the creation of a security interest, ~~he or she~~ the owner shall give the certificate of number card or the registration card to the new owner and shall deliver the certificate of title to the new owner as provided under s. 30.541 (1).

(2) **DUTY OF PURCHASER.** Transfer of the ownership of a boat terminates the certificate of title and the cer-

tificate of number or registration for the boat except in the case of a transfer of a part interest which does not affect the transferor's right to operate the boat. The transferee shall make application for a new certificate of title and a new certificate of number or registration within 10 days after the date of purchase as prescribed by the department. Upon receipt of the application accompanied by the required fee, the department shall issue a new certificate of title and a new certificate of number card or registration card for the boat. Notwithstanding s. 30.52 (5) (a) 2 or (b) 2, the department shall not issue new certification stickers or decals or new registration stickers or decals if the fee specified under s. 30.52 (3) (h) rather than the appropriate fee specified under s. 30.52 (3) (b) to (g) is paid. The department shall not award a new identification number to the boat unless compliance with federal numbering regulations requires otherwise.

SECTION 6. 30.54 to 30.547 of the statutes are created to read:

30.54 Lost, stolen or mutilated certificates. (1) If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a replacement upon furnishing information satisfactory to the department. The replacement certificate of title shall contain the legend "This is a replacement certificate and may be subject to the rights of a person under the original certificate".

(2) If a person applies for a replacement certificate under sub. (1), conservation wardens or local law enforcement officials, after presenting appropriate credentials to the owner or legal representative of the owner named in the certificate of title, shall inspect the boat's engine serial number or hull identification number, for purposes of verification or enforcement.

(3) The department shall not issue a new certificate of title to a transferee upon application made on a replacement until 15 days after receipt of the application.

(4) A person recovering an original certificate of title for which a replacement has been issued shall promptly surrender the original certificate to the department.

30.541 Transfers of boat titles. (1) **OWNERS.** If an owner transfers an interest in a boat, other than by the creation of a security interest, the owner shall, at the time of the delivery of the boat, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of origin and deliver the certificate of origin and the certificate of title to the transferee. The transferee shall make application for a new certificate of title as provided under s. 30.549 (2) and shall include in the application the certificate of origin.

(2) **DEALERS.** If a dealer acquires a new or used boat and holds it for resale the dealer need not send

the certificate of title or application for original certificate to the department. Upon transferring the boat to another person the dealer shall immediately give such person on a form prescribed by the department a receipt for all title, registration, security interest and sales tax moneys paid to the dealer for transmittal to the department when required. The dealer shall promptly execute the assignment and warranty of title, showing the name and address of the transferee and of any secured party holding a security interest created or reserved at the time of the resale, in the spaces provided therefor on the certificate of origin or the certificate or title, and shall, within 7 business days following the sale or transfer, deliver the certificate of origin and the certificate of title or application for certificate of title to the transferee.

(3) INVOLUNTARY TRANSFERS. (a) If the interest of an owner in a boat passes to another other than by voluntary transfer, the transferee shall, except as provided in par. (b), promptly mail or deliver to the department the last certificate of title, if available, and the documents required by the department to legally effect such transfer, and an application for a new certificate in the form the department prescribes.

(b) If the interest of the owner is terminated or the boat is sold under a security agreement by a secured party, the transferee shall promptly mail or deliver to the department the last certificate of title, an application for a new certificate in the form the department prescribes, and an affidavit made by or on behalf of the secured party that the boat was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement.

(c) A person holding a certificate of title whose interest in the boat has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or secured party.

(4) NEW CERTIFICATES ISSUED. (a) The department, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, ~~the~~ ~~required fee~~ and any other transfer documents required by law, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner.

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(b) The department, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, ~~the~~ ~~required fee~~ and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner.

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(c) The department shall file and retain for 5 years a record of every surrendered certificate of title, the file

to be maintained so as to permit the tracing of title of the boat designated therein.

30.543 Report of stolen or abandoned boats. Each sheriff and police department in the state shall immediately report to the department of justice each boat reported stolen or recovered within its jurisdiction and the department of justice shall subsequently report such information to the national crime information center.

30.544 Inspection of boats purchased out-of-state. For purposes of enforcement, conservation wardens or local law enforcement officials, after presenting appropriate credentials to the owner of a boat which was purchased outside of this state and which is subject to the certificate of title requirements of this chapter, shall inspect the boat's engine serial number or hull identification number.

30.547 Penalty. Any person who intentionally falsifies an application for a certificate of title or a certificate of title issued under s. 30.537 (1) or 30.541 (4) or who intentionally alters a hull identification number or engine serial number shall be fined not more than \$5,000 or imprisoned not more than 5 years or both.

SECTION 7. 30.55 of the statutes is amended to read:

30.55 Notice of abandonment or destruction of boat or change of address. (1) DESTRUCTION OR ABANDONMENT. If a boat covered by a certificate of title and certificate of number or registration issued by this state is destroyed or abandoned, the owner shall notify the department of that fact within 15 days after the destruction or abandonment and shall at the same time return the certificate of title and certificate of number card or registration card to the department for cancellation.

(2) CHANGE OF ADDRESS. If a person, after applying for a certificate of title and certificate of number or registration or after receiving a certificate of title and certificate of number card or a registration card, moves from the address given in the application or the card, he or she, within 15 days after moving, shall notify the department in writing of both the old and new address and of any identification numbers awarded under this chapter.

SECTION 8. 30.553 of the statutes is created to read:

30.553 Sharing boat title records. (1) At time intervals to be determined by the department, but at least quarterly, the department shall, upon request, provide boat manufacturers with the department's records under ss. 30.537 (2) and 30.541 (4) (c) for the primary purpose of validating the hull identification numbers and engine serial numbers provided by applicants for certificate of title.

(2) Upon examination, if a boat manufacturer discovers a discrepancy between the information contained in the department's records and the manufacturer's records, the manufacturer shall notify the department of the discrepancy and the department

shall investigate and determine which is the correct information.

Vetoed in Part (3) The department may charge a fee to be established by rule which shall approximate the cost to the department of providing boat title records to a boat manufacturer, based upon the number of boat title records provided to the boat manufacturer.

Vetoed in Part SECTION 9. ~~Nonstatutory provisions.~~ Notwithstanding section 227.24 of the statutes, the department of natural resources shall promulgate the rules required under sections 30.537 (3) and (4) and 30.553 (3) of the statutes, as created by this act, by emergency rule within 30 days after the effective date of the SECTION.

SECTION 10. Appropriation changes. The appropriation to the department of natural resources under section 20.370 (8) (dr) of the statutes, as affected by the acts of 1987, is increased by \$154,300 for fiscal year 1988-89 to fund 1.0 FTE SEG position in the department of natural resources and for the purpose of funding the developmental costs and initial titling costs associated with creating a boat titling program.

SECTION 12. Effective date. This act takes effect on the first day of the 9th month beginning after publication.

