

# State of Wisconsin



1995 Senate Bill 252

Date of enactment: **March 6, 1996**  
Date of publication\*: **March 19, 1996**

## 1995 WISCONSIN ACT 152

AN ACT to amend 30.74 (2), 30.77 (3) (a), 30.77 (3) (am) 1., 30.77 (3) (am) 2., 30.77 (3) (b), 30.77 (3) (d) and 30.77 (4); to repeal and recreate 30.77 (3) (am) 4.; and to create 30.77 (3) (ac) 2., 30.77 (3) (ae), 30.77 (3) (am) 1. b., 30.77 (3) (ar), 30.77 (3) (aw), 30.77 (3) (cm), 30.77 (3) (cr) and 30.77 (3) (dm) of the statutes; relating to: enactment of boating ordinances by towns, villages, cities, public inland lake protection and rehabilitation districts and counties and placement of regulatory boating markers and aids to navigation.

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

**SECTION 1.** 30.74 (2) of the statutes is amended to read:

30.74 (2) (a) By rule establish uniform marking of the water areas of this state through the placement of aids to navigation and regulatory markers. ~~Such~~ These rules shall establish a marking system compatible with the system of aids to navigation prescribed by the U.S. coast guard and shall give due regard to the system of uniform waterway markers approved by the advisory panel of state officials to the merchant marine council, U.S. coast guard. ~~After January 1, 1968, no~~ No municipality or person shall may mark the waters of this state in any manner in conflict with the marking system prescribed by the department. Any regulatory marker ~~which or aid to navigation that~~ does not comply with ~~such~~ this marking system by ~~January 1, 1968,~~ is deemed considered an unlawful obstruction to navigable waters and may be removed in accordance with law. The department may not prohibit the placement of a regulatory marker or an aid to navigation if it complies with this marking system and if it is being placed pursuant to an ordinance that has been enacted in compliance with s. 30.77.

**SECTION 2.** 30.77 (3) (a) of the statutes is amended to read:

30.77 (3) (a) Any town, village or city may, in the interest of public health, safety or welfare, including the public's interest in preserving the state's natural resources, enact ordinances applicable on any waters of this state within its jurisdiction if the ordinances are not contrary to or inconsistent with this chapter and if the ordinances relate to the equipment, use or operation of boats or to any activity regulated by ss. 30.60 to 30.71.

(ac) Except as provided under s. 33.455 (3) (b), no ~~such~~ ordinance that pertains to the equipment, use or operation of a boat on an inland lake is valid unless ~~an~~ one of the following occurs:

1. All towns, ~~cities and~~ villages and cities having jurisdiction ~~on over~~ over the waters of the lake have enacted an identical ordinance.

**SECTION 3.** 30.77 (3) (ac) 2. of the statutes is created to read:

30.77 (3) (ac) 2. At least 50% of the towns, villages and cities having jurisdiction over the lake have enacted an identical ordinance and at least 60% of the footage of shoreline of the lake is within the boundaries of these towns, villages and cities.

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**SECTION 4.** 30.77 (3) (ae) of the statutes is created to read:

30.77 (3) (ae) If a town, village or city proposes to amend or repeal an ordinance that it enacted under par. (ac), and if the amendment or repeal will result in less than 50% of the towns, villages or cities with jurisdiction over the lake still having in effect the current ordinance or if the amendment or repeal will result in less than 60% of the footage of shoreline of the lake being within the boundaries of the towns, villages and cities with the current ordinance still in effect, the town, village or city proposing the amendment or repeal shall hold a hearing on the issue at least 30 days before the amendment or repeal will take effect and shall give notice as required under par. (aw) 2. If, after holding the hearing, the town, village or city amends or repeals the ordinance that it enacted under par. (ac), all of the identical ordinances are void.

**SECTION 5.** 30.77 (3) (am) 1. of the statutes is amended to read:

30.77 (3) (am) 1. A public inland lake protection and rehabilitation district may, in the interest of public health, safety or welfare, including the public's interest in preserving the state's natural resources, enact and enforce ordinances applicable to a lake entirely within its boundaries if each one of the following occurs:

a. Each town, village and city having jurisdiction ~~on~~ over the lake adopts a resolution authorizing the lake district to do so.

**SECTION 6.** 30.77 (3) (am) 1. b. of the statutes is created to read:

30.77 (3) (am) 1. b. At least 50% of the towns, villages and cities having jurisdiction over the lake adopt resolutions authorizing the lake district to enact and enforce ordinances, and at least 60% of the footage of shoreline of the lake is within the boundaries of these towns, villages and cities.

**SECTION 7.** 30.77 (3) (am) 2. of the statutes is amended to read:

30.77 (3) (am) 2. An ordinance enacted under subd. 1. ~~must~~ may not be contrary to or inconsistent with this chapter and ~~must~~ shall relate to the equipment, use or operation of boats or to an activity regulated by ss. 30.60 to 30.71.

**SECTION 8.** 30.77 (3) (am) 4. of the statutes is repealed and recreated to read:

30.77 (3) (am) 4. If a town, village or city proposes to rescind a resolution that it adopted under subd. 1., and if the rescision will result in less than 50% of the towns, villages or cities with jurisdiction over the lake still having in effect resolutions adopted under subd. 1. or will result in less than 60% of the footage of shoreline of the lake being within the boundaries of the towns, villages and cities with resolutions still in effect, the town, village or city proposing to rescind the resolution shall hold a hearing on the rescision at least 30 days before the rescision

will take effect and shall give notice as required under par. (aw) 2. If, after holding the hearing, the town, village or city rescinds the resolution that it adopted under subd. 1., the lake district ordinances are void.

**SECTION 9.** 30.77 (3) (ar) of the statutes is created to read:

30.77 (3) (ar) In determining footage of shoreline for purposes of pars. (ac), (ae) and (am), towns, villages, cities and lake districts shall measure by use of a map wheel on the U.S. geological survey 7 1/2 minute series map.

**SECTION 10.** 30.77 (3) (aw) of the statutes is created to read:

30.77 (3) (aw) 1. If one or more towns, villages or cities propose to enact an ordinance for an inland lake under par. (ac) 2. or a lake district proposes to enact an ordinance for an inland lake under par. (am) 1. b., it shall hold a public hearing on the proposed ordinance at least 30 days before its enactment.

2. The town, village or city that has the most footage of shoreline of the lake within its boundaries and that is supporting the proposal shall publish a notice of the public hearing under subd. 1. or par. (ae) or (am) 4. at least 30 days before the date of the hearing in one or more newspapers likely to give notice of the hearing in all towns, villages or cities that have jurisdiction over the lake. The notice shall be a class 1 notice under ch. 985. The town, village or city publishing the notice shall send a copy of the notice at least 30 days before the date of the hearing to the department, each municipality having jurisdiction over the lake and each lake association for the lake.

**SECTION 11.** 30.77 (3) (b) of the statutes is amended to read:

30.77 (3) (b) Any county may, in the interest of public health, safety or welfare, including the public's interest in preserving the state's natural resources, enact an ordinance applicable on any river or stream within its jurisdiction if the ordinance is not contrary to or inconsistent with this chapter, and if the ordinance relates to the equipment, use or operation of boats or to any activity regulated by ss. 30.60 to 30.71. If a county enacts an ordinance under this paragraph, the county ordinance supersedes all provisions of a town, village or city ordinance enacted under par. (a) that is inconsistent with the county ordinance.

**SECTION 12.** 30.77 (3) (cm) of the statutes is created to read:

30.77 (3) (cm) In enacting ordinances under par. (a), (am) or (b) for a given body of water, municipalities and public inland lake protection and rehabilitation districts shall take into account factors that include all of the following:

1. The type, size, shape and depth of the body of water and any features of special environmental significance that the body of water has.

2. The amount, type and speed of boating traffic on the body of water and boating safety and congestion.

3. The degree to which the boating traffic on the body of water affects other recreational uses and the public's health, safety and welfare, including the public's interest in preserving the state's natural resources.

**SECTION 13.** 30.77 (3) (cr) of the statutes is created to read:

30.77 (3) (cr) The types of ordinances that may be enacted under par. (a), (am) or (b) include the following:

1. Restrictions on speed.
2. Restrictions on certain types of boating activities on all, or in specified parts, of the lake, river or stream.
3. Restrictions on certain types of boating activities during specified hours of the day or specified days of the week.

**SECTION 14.** 30.77 (3) (d) of the statutes is amended to read:

30.77 (3) (d) Ordinances pertaining to the equipment, use or operation of boats on inland lakes shall be subject to advisory review by the department as provided under this paragraph. Proposed ordinances subject to review under this paragraph shall be submitted by the local town, village or city clerk or by a public inland lake protection and rehabilitation district to the department at least 60 days prior to final action thereon by the town, village or city governing body. Advisory reports regarding town, village or city or lake district ordinances that regulate the equipment, use or operation of boats on inland lakes shall be based on consideration of the effect of the ordinance on the state from the standpoint of uniformity and enforcement and the effect of the ordinance on an affected town, village, city or lake district in view of pertinent local conditions. Advisory reports shall state in what regard such ordinances are considered consistent or inconsistent with this chapter as to public health, safety or welfare, including the public's interest in preserving the state's natural resources, and shall be accompanied by suggested changes, if any. No later than 20 days after receipt by the department of proposed ordinances, the department shall advise the town, village, city or lake district in writing as to the results of its advisory review under this paragraph. The department shall address the results sent to a town, village or city to its clerk.

**SECTION 14m.** 30.77 (3) (dm) of the statutes is created to read:

30.77 (3) (dm) 1. In this paragraph, "local entity" means a city, village, town, county, qualified lake association, as defined in s. 144.253 (1), nonprofit conservation organization, as defined in s. 23.0955 (1), town sanitary district, public inland lake protection and rehabilitation district or another local governmental unit, as defined in s. 66.299 (1) (a), that is established for the purpose of lake management.

2. If the department or a local entity objects to an ordinance enacted under par. (a), (ac) 2. or (am) 1. b., on the grounds that all or a portion of the ordinance is contrary to or inconsistent with this chapter, all of the following apply:

a. Upon receipt of an objection under this subdivision, the department shall order a hearing on the objection under ch. 227. The hearing shall be a contested case hearing, and the administrator of the division of hearings and appeals in the department of administration shall assign a hearing examiner to the hearing as provided in s. 227.43. Persons who are not parties to the contested case may present testimony and evidence at the hearing.

b. The hearing examiner shall issue an order on the objection within 90 days after the date on which the hearing is ordered under subd. 2. a. If the hearing examiner determines that the ordinance or the portion of the ordinance is contrary to or inconsistent with this chapter, the hearing examiner shall issue an order declaring the ordinance or that portion of the ordinance void. The order shall prohibit the enforcement of all or any portion of the ordinance declared to be void.

3. The procedure under this paragraph does not supersede any other legal right or procedure that a person has to contest an ordinance enacted under this section.

**SECTION 15.** 30.77 (4) of the statutes is amended to read:

30.77 (4) PUBLICIZING ORDINANCES. All ordinances enacted under sub. (3) shall be prominently posted by the local authority which enacted them and, for ordinances enacted under sub. (3) (ac) 2., by all local authorities having jurisdiction over the lake, at all public access points within the local authority's jurisdiction and also shall be filed with the department.