

State of Wisconsin



2005 Senate Bill 467

Date of enactment: **April 19, 2006**

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2005 WISCONSIN ACT 360

AN ACT to repeal 280.01 (3) and 280.15 (3); to renumber and amend 280.01 (4), 280.01 (7), 280.15 (2) and 280.16 (2); to amend 23.50 (1), 280.13 (1) (e), 280.13 (2) (intro.), (a) and (b), 280.13 (3) to (6), 280.15 (title), 280.15 (1) (b), 280.15 (1) (c), 280.15 (1) (d), 280.15 (1) (e), 280.15 (4), 280.19, 280.97, 299.07 (1) (a) 1., 299.08 (1) (a) 1., 443.14 (12m) and 470.025 (9); to repeal and recreate 280.15 (1) (a); and to create 280.15 (1) (title), 280.15 (1) (am), 280.15 (2m), 280.15 (3g), 280.15 (3r), 280.16 (2) (a), (b) and (c), 280.30 and 280.98 of the statutes; relating to: well drilling, pump installing, well inspection and abandonment, granting rule-making authority, and providing a penalty.

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

SECTION 1. 23.50 (1) of the statutes is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 280.98 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

SECTION 2. 280.01 (3) of the statutes is repealed.

SECTION 3. 280.01 (4) of the statutes is renumbered 280.01 (2e) and amended to read:

280.01 (2e) "Pump Licensed pump installer" means any person, firm or corporation individual who has duly registered as such with the department and shall have paid the annual registration license fee under s. 280.15 (2m) (c) 2. and obtained a permit to engage in pump installing as herein provided license under s. 280.15 (2m) as a pump installer.

SECTION 4. 280.01 (7) of the statutes is renumbered 280.01 (2m) and amended to read:

280.01 (2m) "Well Licensed well driller" means any person, firm or corporation individual who has duly registered as such with the department and shall have paid the annual registration license fee under s. 280.15 (2m) (c) 1. and obtained a permit to construct wells as herein provided license under s. 280.15 (2m) as a well driller.

SECTION 5. 280.13 (1) (e) of the statutes is amended to read:

280.13 (1) (e) Prepare and cause to be printed such any codes, bulletins or other documents as may be that the department determines are necessary for the safety of the public health and the betterment of the industries, and furnish copies thereof of those documents to licensed well drillers, licensed pump installers and to the public upon request.

* Section 991.11, WISCONSIN STATUTES 2003-04 : 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 6. 280.13 (2) (intro.), (a) and (b) of the statutes are amended to read:

280.13 (2) (intro.) The department may on its own motion make investigations and conduct hearings and may, on its own motion or upon complaint in writing, duly signed and verified by the complainant, and upon not less than 10 days' notice to the licensed well driller or licensed pump installer, suspend or revoke as hereinafter provided in subs. (3) and (4) any well driller's or pump installer's permit license if said the department has reason to believe or finds that the holder of such permit the license has done any of the following:

(a) Made a material misstatement in the application for permit the license or any application for a renewal thereof of the license.

(b) Demonstrated incompetency to act in the industry or industries for which such permit the license was issued; ~~or~~.

SECTION 7. 280.13 (3) to (6) of the statutes are amended to read:

280.13 (3) ~~A. The department shall serve a copy of the complaint with notice of the suspension of permit license, if ordered by the department, shall be served on the person complained against, and the person's person shall file an answer shall be filed with the department and the complainant within 10 days after service. The department shall thereupon set the matter for hearing as promptly as possible and within 30 days after the date on which the complaint was filed. Either party may appear at the hearing in person or by attorney or agent.~~

(4) ~~No~~ The department may not make an order revoking a permit license under sub. (2) ~~shall be made~~ until after a public hearing to be held before the department in the county where the permittee licensee has his or her place of business. If the permittee licensee is a nonresident, the hearing shall be at such the place as that the department designates. At least 10 days prior to the hearing the department shall send written notice of the time and place of the hearing to the permittee licensee and to the permittee's licensee's attorney or agent of record by mailing the notice to the last-known address of such those persons. The testimony presented and proceedings had at the hearing shall be recorded and preserved as the records of the department. The department shall as soon thereafter as possible after the hearing make its findings and determination and send a copy to each interested party.

(5) One year after the date of revocation or thereafter ~~application may be made~~ a person whose license was revoked may apply for a new permit license.

(6) No individual, ~~firm or corporation~~ whose permit license has been revoked pursuant to under this section shall may, during the period in which the revocation is effective, engage in any well drilling or pump installing activity except under the direct supervision ~~and as an~~ employee of a registered licensed well driller or licensed

pump installer and as an employee of a licensed well driller, a licensed pump installer, a registered well drilling business, or a registered pump installing business.

SECTION 8. 280.15 (title) of the statutes is amended to read:

280.15 (title) **Well drilling and pump installing; registration; licensing; qualifications; fee.**

SECTION 9. 280.15 (1) (title) of the statutes is created to read:

280.15 (1) (title) BUSINESS REGISTRATION.

SECTION 10. 280.15 (1) (a) of the statutes is repealed and recreated to read:

280.15 (1) (a) *Registration requirement.* No person may engage in the business of well drilling or pump installing in this state unless the person obtains registration under this paragraph as a well drilling business or pump installing business, except as follows:

1. An individual who is a licensed well driller or a licensed pump installer is not required to obtain registration.

2. An individual who is employed by or works under contract with a licensed well driller or a licensed pump installer is not required to obtain registration.

3. An individual who is employed by or works under contract with a person who is registered under this paragraph is not required to obtain registration.

4. An individual to whom sub. (4) or s. 280.19 applies is not required to obtain registration.

SECTION 11. 280.15 (1) (am) of the statutes is created to read:

280.15 (1) (am) *Prerequisite.* The department may not grant registration under par. (a) to a person to engage in the business of well drilling unless the person is a licensed well driller, a licensed well driller has an ownership interest in the business, or the person employs or contracts with a licensed well driller. The department may not grant registration under par. (a) to a person to engage in the business of pump installing unless the person is a licensed pump installer, a licensed pump installer has an ownership interest in the business, or the person employs or contracts with a licensed pump installer.

SECTION 12. 280.15 (1) (b) of the statutes is amended to read:

280.15 (1) (b) *Application.* A person who seeks to register as a well ~~driller~~ drilling business or pump ~~installer~~ installing business shall apply to the department for registration of each place of business or retail outlet he or she operates as a well ~~driller~~ drilling business, pump ~~installer~~ installing business, or both, upon forms prepared by the department for this purpose. The application shall be accompanied by a permit registration fee for each place of business or retail outlet included in the application.

SECTION 13. 280.15 (1) (c) of the statutes is amended to read:

280.15 (1) (c) *Renewal*. In order to retain registration as a well driller drilling business or pump installer installing business a person shall apply for registration renewal and pay the required permit registration fees annually on or before January 1 ~~of each year~~.

SECTION 14. 280.15 (1) (d) of the statutes is amended to read:

280.15 (1) (d) *Permit Registration fee*. The permit fees required for registration application or annual renewal are as follows:

1. Well driller drilling business, \$50.
2. Pump installer installing business, \$25.
3. Well driller drilling business and pump installer installing business, \$75.

SECTION 15. 280.15 (1) (e) of the statutes is amended to read:

280.15 (1) (e) *Late fees*. A person who files an application for registration renewal or who fails to pay the required annual permit registration fees after January 1 shall pay a late penalty of \$15.

SECTION 16. 280.15 (2) of the statutes is renumbered 280.15 (1) (f) and amended to read:

280.15 (1) (f) *Expiration*. All ~~permits so~~ registrations issued shall under this subsection expire on December 31 of each year and ~~shall not be~~ are not transferable.

SECTION 17. 280.15 (2m) of the statutes is created to read:

280.15 (2m) WELL DRILLER AND PUMP INSTALLER LICENSING. (a) *Application*. An individual who seeks a well driller or pump installer license shall apply to the department on a form prepared by the department. The individual shall include the fee specified in par. (c) with the application.

(b) *Renewal*. In order to retain his or her license as a well driller or pump installer an individual shall comply with requirements for continuing education promulgated by the department by rule and shall apply for license renewal and pay the required license fees under par. (c) annually on or before January 1.

(c) *Fees*. The license fees required for license application or annual renewal are as follows:

1. Well driller, \$50.
2. Pump installer, \$25.

(d) *Late fees*. An individual who files an application for license renewal or pays the required annual fees after January 1 shall pay a late penalty of \$15.

(e) *Prerequisites for pump installer license*. The department may not issue a pump installer license unless the applicant demonstrates competency in pump installing by passing an examination administered by the department.

(f) *Prerequisites for well driller license*. The department may not issue a well driller license unless all of the following apply:

1. The applicant demonstrates competency in well drilling by passing an examination administered by the department.

2. Except as provided in par. (g), the applicant has been a registered drilling rig operator for at least 2 years within the 5 years before applying, has complied with training and continuing education requirements under sub. (3g), and has the well drilling experience required by the department by rule.

(g) *Exceptions*. 1. The department may issue a well driller license to an applicant who does not comply with par. (f) 2. if the applicant complies with par. (f) 1. and holds a well driller license in good standing from another state and the department determines that the other state has laws and rules governing well drilling and licensing of well drillers that are substantially similar to this state's laws and rules.

2. The department shall establish alternative requirements to par. (f) 2. for applicants who have gained well drilling experience before the effective date of this subdivision [revisor inserts date].

SECTION 18. 280.15 (3) of the statutes is repealed.

SECTION 19. 280.15 (3g) of the statutes is created to read:

280.15 (3g) DRILLING RIG OPERATOR REGISTRATION. (a) *Application*. An individual who seeks registration as a drilling rig operator shall apply to the department on a form prepared by the department. The individual shall include a fee of \$25.

(b) *Renewal*. In order to retain registration as a drilling rig operator an individual shall complete training approved by the department and comply with requirements for continuing education promulgated by the department by rule and shall apply for registration renewal and pay a fee of \$25 annually on or before January 1.

(d) *Late fees*. An individual who files an application for registration renewal or who pays the required annual fee after January 1 shall pay a late penalty of \$15.

SECTION 20. 280.15 (3r) of the statutes is created to read:

280.15 (3r) SUPERVISION. (a) *Requirement*. Except as provided in par. (b) and sub. (4), an individual who is not a licensed well driller or a registered drilling rig operator may only engage in well drilling if the individual is under the supervision of a licensed well driller or a registered drilling rig operator who is on the site of the well drilling.

(b) *Exception*. Paragraph (a) does not apply to an individual performing well drilling of a public well for a local governmental unit if the individual applies for registration under sub. (3g) no later than 14 days after the day on which the individual begins to perform the well drilling.

SECTION 21. 280.15 (4) of the statutes is amended to read:

280.15 (4) WORK ON OWN REAL ESTATE. No person is required to obtain a permit registration or license under this section for driving, digging or otherwise obtaining groundwater supply on real estate owned or leased by that person, but the well and the work done ~~thereon~~ on the well shall comply ~~and be in conformity~~ with the law and the rules promulgated by the department.

SECTION 22. 280.16 (2) of the statutes is renumbered 280.16 (2) (intro.) and amended to read:

280.16 (2) (intro.) No person may install a pitless adapter that extends into the inside of a well casing pipe except if the sand screen is permanently attached to the bottom of a well casing pipe that is constructed of polyvinyl chloride. Only individuals registered under s. 280.15 the following may install pitless adapters:

SECTION 23. 280.16 (2) (a), (b) and (c) of the statutes are created to read:

280.16 (2) (a) A licensed pump installer.

(b) An employee of a licensed pump installer or a registered pump installing business.

(c) A welder under contract with a licensed pump installer or registered pump installing business.

SECTION 24. 280.19 of the statutes is amended to read:

280.19 Registration exceptions. No registration or permit license to engage in the well drilling or pump installing industry ~~shall be~~ is required ~~by~~ of competent sanitary engineers or ~~by~~ of superintendents of waterworks systems in the preparations of plans and specifications or in supervising the installation of wells and water systems for the obtaining of supplies of groundwater, but ~~all such~~ the plans and specifications shall conform to all requirements established by the department.

SECTION 25. 280.30 of the statutes is created to read:

280.30 Well abandonment and property transfer inspections. (1) **DEFINITION.** Notwithstanding s. 280.01 (6), in this section, "water supply well" means an excavation or opening into the ground made by digging, boring, drilling, or other method that supplies water for any purpose.

(2) **ABANDONMENT.** An individual may not fill or seal a water supply well unless one of the following applies:

(a) The individual is a licensed well driller or licensed pump installer.

(b) The individual is under the supervision of a licensed well driller or licensed pump installer or the individual is under the supervision of a water system operator certified under s. 281.17 (3) and the well is within the service area of the local governmental water system for which the certified operator works. The licensed or certified individual is not required to be present during the filling or sealing.

(c) The individual is a water system operator certified under s. 281.17 (3) and the well is within the service area

of the local governmental water system for which the individual works.

(3) **PROPERTY TRANSFER WELL INSPECTIONS.** (a) An individual may not for compensation, in contemplation of a transfer of real property, conduct an inspection of the real property for the purpose of locating or evaluating water supply wells or pressure systems on the real property unless the individual is a licensed well driller or a licensed pump installer.

(b) The department shall promulgate rules for inspections and evaluations described in par. (a).

SECTION 26. 280.97 of the statutes is amended to read:

280.97 Penalties. ~~Any person, firm, or corporation who engages in or follows the business or occupation of, or advertises or holds himself, herself or itself out as or acts temporarily or otherwise as a well driller or pump installer without having first secured the required permit or certificate of registration or renewal thereof, or~~ Except as provided in s. 280.98 (3), any person who otherwise violates any provision of this chapter, shall be fined not less than \$10 or more than \$100 or imprisoned not more than 30 days, or both. Each day during which a violation continues ~~shall constitute~~ constitutes a separate and ~~distinct~~ offense, ~~and that~~ may be punished separately.

SECTION 27. 280.98 of the statutes is created to read:

280.98 Citations. (1) Except as provided in sub. (5), the department may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture as specified in sub. (3) from a person who commits a violation specified under sub. (2).

(2) The department shall promulgate rules that specify violations of rules under this chapter relating to licensing; registration; disinfection, sampling, and reporting requirements; water systems that were installed before February 1, 1991; and well or drill hole abandonment to which sub. (1) applies.

(3) A person who commits a violation specified under sub. (2) shall, if the department issues a citation under sub. (1), be required to forfeit \$500 for a first violation and \$1,000 for a 2nd or subsequent violation of the same provision.

(4) The department shall promulgate rules that specify an enforcement process that the department must follow before issuing a citation under sub. (1). The department shall include in the enforcement process under this subsection an enforcement conference with the person against whom enforcement is contemplated.

(5) Subsection (1) does not apply to a community water system, as defined in s. 281.62 (1) (a), that is owned by a city, village, town, county, town sanitary district, utility district, public inland lake protection and rehabilitation district, or municipal water district, or by a privately owned water utility serving any of the foregoing.

SECTION 28. 299.07 (1) (a) 1. of the statutes is amended to read:

299.07 (1) (a) 1. A registration or license under s. 280.15.

SECTION 29. 299.08 (1) (a) 1. of the statutes is amended to read:

299.08 (1) (a) 1. A registration or license under s. 280.15.

SECTION 30. 443.14 (12m) of the statutes is amended to read:

443.14 (12m) A well driller, ~~as defined in s. 280.01 (7), who is licensed under s. 280.15 (2m), or an employee of a well drilling business that is registered under s. 280.15 (1),~~ who is engaged in well drilling, as defined in s. 280.01 (8).

SECTION 31. 470.025 (9) of the statutes is amended to read:

470.025 (9) A well driller, ~~as defined in s. 280.01 (7), who is licensed under s. 280.15 (2m), or an employee of a well drilling business that is registered under s. 280.15 (1),~~ who is engaged in well drilling, as defined in s. 280.01 (8).

SECTION 32. Nonstatutory provisions.

(1) The department of natural resources shall issue a well driller license to each individual registered as a well driller under section 280.15 (1), 2003 stats., on the effective date of this subsection without requiring the individual to comply with section 280.15 (2m) (f) of the statutes, as created by this act. The department of natural resources shall issue a pump installer license to each individual registered as a pump installer under section 280.15 (1), 2003 stats., on the effective date of this subsection, without requiring the individual to comply with section 280.15 (2m) (e) of the statutes, as created by this act.

SECTION 33. Effective dates. This act takes effect on the first day of the 25th month beginning after publication, except as follows:

(1). The treatment of section 280.15 (3g) and (3r) of the statutes takes effect on the first day of the 7th month beginning after publication.

(2) Section 32 (1) of this act takes effect on the first day of the 19th month beginning after publication.