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Summary of 1953 Wisconsin Legislation
Relating to Boats

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Bills passed:

Chapter 142 (355, A.) prohibits the anchoring of watercraft to railroad tracks or fixtures.

Chapter 175 (357, A.) relating to actions against a nonresident owner or operator of watercraft causing injury to person or property within this state.

Bills which failed to pass:

Bill No. 284, S. provided for licensing of boat livery operators and the registration of rental boats by the Industrial Commission. The fee was to be based on the number of boats: \$5 for 5 boats or less, and 50¢ for each additional boat.

Bill No. 662, S. exempted watercraft used exclusively for pleasure and not for hire from personal property tax.

Bill No. 120, A. authorized county board to regulate speedboats in inland waters and charge fee of not to exceed \$2.

Bill No. 438, A. required row boats used for night fishing to carry a white light and provided that no motor boat shall pass within 150 feet of an occupied row boat except at reduced speeds.

Bill No. 680, A. provided for annual assessment of all water carriers by department of taxation and to tax at state average rate. Repealed provision for payments in lieu of taxes.

Bill No. 836, A. granted the counties adjacent to the Petenwell and Castle Rock flowage jurisdiction in common of all offenses committed on said flowage. Counties, in addition to cities, towns and villages, would have power to make safety regulations for boats, but any county ordinances or regulations would not supersede any city, town or village ordinances already in effect. Sheriffs would be given authority to conduct rescue operations and searches for bodies and recover bodies.

REGULATION OF BOATS ON INLAND WATERS

HIGHLIGHTS OF THE PROBLEM.

1. Wisconsin has more than 3,500 lakes and 200 rivers which form the basis of a strong recreational industry. No one knows how many boats are used on these waters, but Michigan with similar geography estimates that it has more than 250,000 boats of all types.
2. During the past 10 years an average of 38 persons a year have lost their lives in accidents involving boats in Wisconsin. Many potential deaths are averted by fortunate rescues. For example, the university lifeguards rescued 136 overturned boats on Lake Mendota alone in 1949 and 159 in 1950, involving 292 and 421 people respectively.
3. The motorboat has made the problem more acute by introducing speed, noise, traffic, allocation of priorities, shore erosion and other new problems.
4. All of the states surrounding Wisconsin regulate boats to some degree. Iowa is the only surrounding state which licenses any boats on a state-wide scale.
5. In every legislative session since 1911 except 1921, proposals to regulate boats have been introduced. In 1951, 7 different proposals were made.
6. No less than 16 bills have been introduced to license all boats motorboats or boats for hire. These proposals would place this responsibility on the Conservation Commission, the Board of Health, the Secretary of State or the county.
7. Wisconsin statutes now provide for boat regulation in sections 30.06, 60.29 (35) and 340.21. Section 340.21 which provides the penalty for overloading boats for hire is almost 100 years old. Section 30.06 originated in part in 1905.
8. A few highly developed plans of local regulation exist in Wisconsin. Outstanding are those of the Town of Delavan, the Lake Geneva area and the Waupaca Chain of Lakes.
9. Local authority to inspect and regulate boats now exists in the statutes. No less than 16 municipalities have enacted ordinances on the subject.
10. Because most inland waters extend beyond the boundaries of a single municipality, the provisions of 66.30 for cooperative action among municipalities provide the most obvious alternative solution to the problem in view of the Attorney General's opinion of May 10, 1947 that counties do not have authority to regulate boats. Water safety education is also important.
11. No less than 25 items of boat operation and equipment are the subject of regulation in one jurisdiction or another.

REGULATION OF BOATS ON INLAND WATERS

THE PROBLEM

Wisconsin with more than 3,500 lakes and 200 rivers expends large sums of money annually to attract tourists to these waters. Casualties resulting from the misuse of these water facilities are not only a deterrent to the recreational business but a waste of human life.

For the past 10 years an average of 38 people a year have lost their lives due to accidents involving boats in Wisconsin. Although this is only a third as many as lost their lives in other water accidents and about 5.5% as many as lost their lives in motor vehicle accidents, it is an appalling toll. The potential loss of life is even greater. In 1949 and 1950 on Lake Mendota in Madison alone, the University lifeguard station rescued 136 and 159 overturned craft with 292 and 421 occupants respectively.

While the problems of overloading boats, seaworthiness, right of way, lights, etc. have long existed, the advent of the power boat, both inboard and outboard, created new and greater problems. Speed, recklessness, noise, traffic regulation, allocation of lanes or areas for various uses were among them. The effect of boats on shore line, underwater vegetation and fish life also became important.

Boat regulation may consist of shore inspections of the seaworthiness and equipment of the boat and water patrol to enforce safe operation. It may apply to manually operated, wind propelled or mechanically operated boats or any combination of them. It may be applied to pleasure boats, boats for hire or all boats. It is concerned with the safety of those in the boat, the safety of those in other boats, the safety of bathers and the protection of property.

The major problem is enforcement. State agencies do not desire the job of regulating boating on 3,500 lakes. Local regulation is very spotty in this state. In only a few areas are local agencies equipped with personnel and finances to do the job. A large transient recreational population makes broad educational programs difficult.

Specific problems to be met:

- Adults. Should an adult be required in each boat? (See Bill Nos. 3, A and 18, A, 1947)
- Aircraft. Should aircraft capable of landing on water be regulated? (See Section 30.061, Wisconsin Statutes)
- Aquaplaning. Under what circumstances should high speed boats towing persons on boards or skis be permitted?

Area of patrol. What lakes should be patrolled, when and by whom?

Capacity. Can boat capacity be regulated by law? Is length, width, depth, design, condition, number of passengers, weight of passengers or water condition the proper basis? Who shall determine?

Classes of boats. What types of boats should be regulated? All, motorboats, outboards, sailboats, rowboats, boats for hire?

Conduct in boats. Should riding on gunwales, standing in boat, rocking boat, etc. be regulated?

Education. Would an extension program of water safety education be cheaper and more effective?

Enforcement agency. Should a state or local agency enforce the law? What agency should do it? (See Wisconsin Stats. 30.06 (7))

Examination of operator. Should all operators, power boat operators, operators of boats for hire be examined? Should intelligence, knowledge of law, ability to handle craft be tested?

Financing regulation. Who is to pay for enforcement and by what means? How much would it cost? Should it be financed by licenses or taxes? Would a system of state aids stimulate local enforcement?

Fire extinguishers. Should all power boats or those for hire have them? (See Wisconsin Statutes 30.06 (4))

Inspection. Should shore inspections be made of all or some boats and by whom? (See Wis. Stats. 30.06 (6))

Insurance. Should any or all boat owners be required to have personal liability and property damage coverage?

Intoxicants. Should persons under the influence of intoxicants be permitted to operate any boat? Power boats? Boats for hire? Should they be permitted to ride? Should the same rules apply to drug addicts?

Leaving scene of accident. Should a provision be made similar to that in rules of the road?

Licensing. Should all or some boats be licensed? Locally or state-wide? Free or for a fee? Should a plate be required? Could a system of licensing by mail be established?

Life preservers. Should all boats be required to have them? How many? What type? (See Wis. Stats. 30.06 (4))

- Lights. Should all or some boats have lights? What type? Where located? Whether running or stationary? When? (See Wis. Stats. 30.06 (1), (2), (5))
- Livery operators. Should more rigid standards be required of operators who rent boats? Should the operator be licensed? Examined? Should the boats be inspected?
- Noise. Should noise be regulated? Should the hours of operation of power boats be regulated? Should noise regulation depend on location? Should motorboats be required to have mufflers? (See Wis. Stats. 30.06 (8))
- Out-of-state boats. Should the same restrictions be placed on out-of-state boats? Should they be licensed? Should a boat brought to Wisconsin for a week end be licensed?
- Patrol. Should regulation be confined to shore inspection or should there be water patrol? By whom? When? Where? Should its primary function be rescue, catching violators or persuasion?
- Penalties. What should be the penalties? Should they get higher for repeaters? Should confiscation be permitted? (See Wis. Stats. 30.06 (8) (b))
- Power boats. Is there greater need for their regulation? Should speed, noise, capacity, traffic be regulated?
- Priorities. Should various types of boats be given priorities in certain portions of the water? Should rowboats be kept out of speed boat lanes and vice versa?
- Prohibited areas. Should shore lines, bathing beaches, fishing grounds, spawning grounds be prohibited to boats?
- Races. Should permission to hold races be required? What restrictions should be lifted for such races?
- Reckless operation. Can an adequate reckless driving statute be prepared to cover a wide variety of misconduct? (See Wis. Stats. 30.06 (5), (10))
- Reporting accidents. Should operators be required to file reports of accidents with law enforcement officers?
- Rowboats. Should a privately owned and operated rowboat be regulated? Should it have lights at night? Life preservers? Should rowboats for hire be treated differently?

- Rule of the road. Can a set of adequate rules of the road for boats be established? Are the established rules adequate? (See Wis. Stats. 30.06 (3))
- Seaworthiness. Should all or some boats be inspected for seaworthiness? Is it important if adequate safety devices are available?
- Signals. Is a warning device necessary on all or some craft?
- Speed. Should speed be regulated for all or some boats? How is it measured? Should it be restricted in all cases or only near other craft, bathing beaches, shore line, etc.?(See Wis. Stats. 30.06 (9), (11)).
- Swimming areas. Should boats be kept out of swimming areas, and should swimmers be kept out of power boat lanes?

WHAT IS DONE ABOUT THE PROBLEM IN OTHER JURISDICTIONS?

Illinois. 1949 Revised Statutes, Chapter 95-1/2. Illinois deals with the problem of motorboats in the chapter on motor vehicles. In addition to the usual provisions regarding lights, warning signals, life preservers and fire extinguishers specific provision is made to prohibit operation by drug addicts or persons under the influence of intoxicants, against reckless operation, against operation in wilful and wanton disregard for safety of person and property and against operating at a speed greater than is reasonable and proper considering conditions. The State Department of Public Works and Buildings has the responsibility to inspect boats and shall report violations to the county attorney for prosecution. It also inspects and approves various types of life preservers, fire extinguishers, carburetors and other equipment.

Iowa. 1950 Code of Iowa, Chapter 106. This chapter spells out several items in detail. In addition to a provision against reckless driving, it prohibits speeds over 5 mph within 250-feet of another craft or when view is obstructed within 300 feet, and to 10 mph within 300 feet of shore. It requires fire extinguishers and life preservers on all power boats for hire, air tanks on power boats not for hire, mufflers and warning signals on all power boats. Operation while intoxicated or under the influence of drugs is prohibited.

The unique feature of the Iowa law is the free registration of all power boats capable of 8 mph and not used for hire and the licensing of power boats used for hire on a capacity basis. The work is done by the Conservation Commission. All such boats carry a number at least 4 inches high in contrasting color.

Michigan. 1948 Compiled Laws, Chapters 408, 752. Michigan appears to have very little legislation on the regulation of boats. Aside from the nominal regulations of motorboats under section 752.401 and the authority of cities of the 4th class under section 97.4 and villages under 67.38 and 67.39 to enact ordinances and regulations regarding the use of water facilities, the only

comprehensive statutes deal with large passenger boats under Chapter 408.

Minnesota. 1949 Statutes, Chapter 361. The distinctive feature of the Minnesota law is the provision for an intercounty commission consisting of the county commissioners of the counties cooperating to regulate boats, make rules for their operation. Among these functions is the authority to determine the capacity of the boat and to cause the capacity to be posted on the boat. Minnesota law which is confined to steam and motor boats also requires mufflers, provides for reasonable and proper speeds and requires the reporting of accidents. The law also requires boats for hire on lakes with areas of 250 square miles or more to be licensed by the commissioners.

New Jersey. One of the most restrictive laws is that of New Jersey. All inboard and outboard motorboats and their operators must be licensed by the navigation section of the Department of Conservation and Economic Development. Operators of boat liveries pay a larger license fee. All power boats must carry a life preserver for each passenger and all inboards must carry a fire extinguisher. It is illegal to ride the deck or gunwales of a power boat, to travel at night without lights, to operate in a reckless manner, to operate under the influence of liquor or drugs or to leave the scene of an accident. All power boats must have lights and a warning device. The operator's license fee is \$1.50 and the registration fee for power boats used by the owner is also \$1.50.

HAS ANY EFFORT BEEN MADE TO SOLVE THE PROBLEM IN WISCONSIN?

Statutory-Provisions. Since 1858 there has been a statute, Section 340.21, stating that a person navigating a boat for hire who wilfully or negligently fills it so full of passengers that it sinks or oversets and persons are drowned or otherwise killed shall be guilty of third degree manslaughter.

In 1905 the provisions for local inspection and municipal ordinances now incorporated in section 30.06 (6) and (7) of the statutes were created as section 959-92 and 959-93 by Chapter 280, Laws of 1905.

In 1913 the remaining basic provisions now incorporated in section 30.06 (1), (2), (3), (4), (5), were created as part of Chapter 736, Laws of 1913.

Since 1929, 6 additional provisions have been added to the statutes. In 1929 section 30.06 (8) relating to mufflers was enacted by Chapter 135. This was amended by Chapter 693 in 1951 to permit the use without mufflers in races provided permits were secured from the county or municipalities. In the same year the speed limit on the Brule River was set by Chapter 523, creating 30.06 (9). In 1933 the present reckless driving provision in 30.06 (10) was created by Chapter 197. In 1939 the present provision permitting town boards to regulate the use, traffic and noise of motor boats was created by section 60.29 (35). In 1941

a special speed limit for the Chain of Lakes was created by Chapter 193 which created 30.06 (11). Finally in 1947 provision was made for the regulation of seaplanes by Chapter 455 creating section 30.061.

Legislative Proposals. In every session of the legislature since 1911 except 1921 some proposals for the regulation of boats have been introduced. The 7 proposals of 1951 are the greatest number ever introduced.

Of these proposals 14 dealt with the licensing of boats. Nine of the 14 dealt with licensing boats for hire, 3 dealt with all boats and 2 dealt with motorboats only. Nine of them required some sort of plates, tags or painted numbers for identification. Most of them placed the administration of the licensing in the hands of the Conservation Commission, but one amendment placed it in the hands of the Board of Health, one bill placed it in the Secretary of State's office and 2 gave it to the local officials.

No other feature of the boat regulation proposals occurred as frequently as licensing, but other significant proposals have been made. Among them are licensing operators of boats for hire (1000 A., 1911); authorizing game wardens to enforce navigation laws and retain one-fourth the fees (192, S., 1913); prohibiting the sale of canoes and like vessels with seats more than 4 inches from the bottom (832, A., 1915); permitting fishing from motorboats less than 18 feet long (349, A., 1925); permitting fishing from all motorboats (458, A., 1927); restricting speed to 10 mph within 600 feet of shore or 300 feet of another boat (657, A., 1931); inspection of boats for hire by game wardens (123, A., 1943); requiring an adult to accompany each child under 10 in a canoe or sailboat (3, A., 1947); prohibiting a child under 14 from operating an outboard motorboat unless accompanied by an adult (18, A., 1947); prohibiting riding on deck (518, A., 1949); prohibiting operating or entering a boat while intoxicated (518, A., 1949); prohibiting anchoring boats or swimming in boat lanes (518, A., 1949); requiring lights on rowboats at night and reduction of speed when passing (449, A., 1951).

WHAT ALTERNATIVES EXIST?

Education. It is alleged by some that because it is impossible to secure enough personnel to insure enforcement of the law in all parts of the state, a program of education in water safety is the only feasible solution. Illustrations of this device are the colored posters put out by the American Outboard Association, the pamphlets issued by the Lake Geneva Water Safety Committee and the Waupaca Chamber of Commerce, the requirement that all University of Wisconsin students be able to swim, and the water safety programs of various summer camps. The Conservation Commission not only provides lifeguards qualified to teach water safety at its beaches, but permits one of its wardens who is a recognized authority on boat safety to work with those interested in water safety. The Department

of Public Instruction also maintains a health and safety supervisor.

The strength of this program is that it can be done with little or no cost to the state, it develops lasting habits, and it is corrective rather than punitive.

The weaknesses in the program are that it does not reach many of the adults who need it, it does not reach the out of stater who visits the Wisconsin lakes for a week or two in the summer, it will have difficulty in gaining admission to the already crowded curriculum of the schools, and similar programs of highway safety do not seem to be solving the problem on land.

Local Regulation. The most highly developed alternative in Wisconsin is local regulation. While it is confined to a very few localities, they form excellent pilot installations. Four types of programs exist. The first is that of a lake entirely within one municipality. The Town of Delavan in Walworth County operates such a program under a town ordinance. One man is employed during the vacation season to license power craft, boats for hire and patrol the lake. The rather high license fees about carry the cost of the regulation. The emphasis is on prevention, and few fines are levied.

The second type of program is that based on identical ordinances enacted by several municipalities bordering a single body of water. The Geneva Lake Water Safety Committee in cooperation with 4 municipalities surrounding Lake Geneva operates the program on a budget of about \$15,000 a year. They not only patrol the lake and enforce boat regulations, but operate the bathing beaches, provide storm warnings and give swimming, diving and lifesaving instructions in cooperation with the Red Cross. The program is geared to the principle of education and few fines are assessed.

The third program is that conducted on a series of lakes in 2 towns. The Towns of Farmington and Dayton in Waupaca County which contain the Chain of Lakes made an agreement with several groups of resorters to provide a cooperative plan of water regulation. The unique feature of this plan is the allocation of priorities in the lakes by setting aside portions thereof for speedboats, rowboats, bathers, fishing grounds and spawning grounds. A simple pictographic map of the zones with various cautions on water safety is distributed in the area. A patrolman who is deputized by the sheriff is on duty during the vacation season. This program is largely preventive and few arrests are made.

The fourth program is that of a city having jurisdiction over several lakes. By state law the City of Madison is given jurisdiction over the surrounding lakes. An inspection and licensing program is carried out, but because of lack of personnel it has heretofore been confined to week ends. The pressure is eased by the existence of the university lifeguard station

on the largest lake. A registration fee of 25¢ is charged for registering all boats which are then numbered. In addition to reducing loss of boats the licensing system makes the job of discovering boats for property tax assessment purposes easier.

Section 66.30 of the statutes which permits municipalities to do cooperatively anything which they may do individually opens the way for 2 or more municipalities to carry out a cooperative program such as that of Lake Geneva and the Chain of Lakes. This is especially important because counties do not have the authority to regulate boats.

Local Ordinances in Wisconsin

<u>Municipality</u>	<u>Date of Enactment</u>	<u>Jurisdiction</u>
Amherst (Town)	April 4, 1939	Lake Emily
Chenequa(Village)	May 12, 1941	Pine Lake
Coloma(Town)	May 4, 1948	Pleasant Lake
Delavan (Town)	Dec. 29, 1947	Lake Delavan
Fond du Lac(City)	May 18, 1948 1942	Navigable waters within city
Fontana on Lake Geneva(Village)	- April 7, 1941	Lake Geneva within village limits
Geneva Lake(municipalities surrounding)	July 18, 1946	All of Lake Geneva within territorial limits of villages of Fontana and Williams Bay and Town of Linn, and city of Lake Geneva
Grand Rapids(Town)	May 13, 1941	Nepco Lake within Town and west of Highway 13
Lake Geneva (City)	May 29, 1947	Geneva Bay
Madison (City)	May 17, 1950	All waters within city and Lakes Mendota, Monona and Wingra
Manitowoc(City)	August-3, 1931	Manitowoc River in city
Neenah(City)	June 7, 1950	Lake Winnebago with radius of 2,000 yards of shore line of the boundaries of the city and from the mouth of Fox River through Little Lake Butte des Morts
Nekoosa (City)	July 5, 1938	Wis. River adjacent to city
Plum Lake (Town)	July 8, 1940	Town of Plum Lake, Vilas Co.
Random Lake(Village)	July 6, 1938	Random Lake within village limits
Saratoga(Town)	May 13, 1941	Nepco-Lake within town
Washington County*	May 9, 1940	Lakes, rivers and other bodies of water in county

*See XXXVI Att.Gen. 201 for opinion holding county cannot regulate boats.

LEL-IB108 COMPARATIVE DATA ON WISCONSIN LOCAL ORDINANCES REGULATING BOATS
(X denotes provisions relating to that subject)

Municipality	Jurisdiction	Boats to which applicable	Classification of Motorboats	Enforcement Agencies	Enabling Legis.	Licensing	Boat Liveries	Insurance	Restricted Areas	Hours of Operation	Boat Capacity	Speed Limit	Reckless Driving
Amherst(Town)	X	X							X			X	
Chenequa(Village)	X	X											X
Coloma(Town)	X	X							X			X	
Delavan(Town)	X	X		X		X	X	X	X		X	X	X
Fond du Lac(City)	X	X		X								X	X
Fontana on Lake Geneva(Village)	X	X		X		X	X	X	X		X		X
Geneva Lake-municipalities surrounding	X	X							X	X	X	X	X
Grand Rapids(Town)	X	X								X			
Lake Geneva(City)	X	X										X	
Madison(City)	X	X		X		X			X		X	X	X
Manitowoc(City)	X	X											
Neenah(City)	X	X											X
Nekoosa(City)	X	X											
Plum Lake(Town)	X	X										X	X
Random Lake(Village)	X	X							X			X	X
Saratoga(Town)	X	X								X			
Washington(County)	X	X										X	X
Wisconsin 1949 Stats.	X	X		X	X						X	X	X

Municipality	Drunken Driving	Lights	Life Pre-servers	Fire extinguishers	Mufflers	Whistles Horns	Right of Way	Races	Swimmers Aquaplaners	Boat Identification	Miscellaneous	Amphibious Airplanes	Penalties
Amherst(Town)					X								X
Chenequa(Village)		X	X			X							X
Coloma(Town)													X
Delavan(Town)	X	X	X	X	X	X	X		X	X	X	X	X
Fond du Lac(City)					X						X		X
Fontana on Lake Geneva(Village)		X	X	X	X	X	X						X
Geneva Lake-municipalities surrounding	X	X	X	X	X	X	X		X	X	X		X
Grand Rapids(Town)					X	X							X
Lake Geneva(City)													X
Madison(City)		X	X	X	X		X		X	X	X		X
Manitowoc(City)					X								X
Neenah(City)					X								X
Nekoosa(City)					X								X
Plum Lake(Town)					X		X				X		X
Random Lake(Village)		X			X						X		X
Saratoga(Town)					X	X							X
Washington(County)		X											X
Wisconsin 1949 Stats.		X	X	X	X		X						X