

State of Wisconsin



2015 Senate Bill 390

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2015 WISCONSIN ACT 231

AN ACT *to renumber and amend* 86.07 (2); *to amend* 66.0425 (7), 83.015 (2) (b), 86.073 (1), 86.16 (1), 86.16 (5) and 88.68 (4); and *to create* 86.07 (2) (b) and 86.16 (1m) of the statutes; **relating to:** lines transporting manure within highway rights-of-way and providing a penalty.

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

SECTION 1. 66.0425 (7) of the statutes is amended to read:

66.0425 (7) This section does not apply to an obstruction or excavation that is in place for less than 90 days, and for which a permit has been granted by the proper official. This section does not apply if a permit has been issued under s. 86.07 (2) with respect to a manure hose, or written consent has been given under s. 86.16 (1) with respect to a pipe or pipeline, transmitting liquid manure within or across the right-of-way of a highway.

SECTION 2. 83.015 (2) (b) of the statutes is amended to read:

83.015 (2) (b) In any county with a highway commissioner appointed under s. 83.01 (1) (b) or (c), the county highway committee shall be only a policy-making body determining the broad outlines and principles governing administration and the county highway commissioner shall have the administrative powers and duties prescribed for the county highway committee under par. (a), sub. (3) (a) and ss. 27.065 (4) (b) and (13), 32.05 (1) (a), 82.08, 83.01 (6), 83.013, 83.018, 83.025 (1) and (3), 83.026, 83.035, 83.04, 83.05 (1), 83.07 to 83.09, 83.12, 83.14 (6), 83.17, 83.18, 83.42 (3) and (4), 84.01 (5), 84.06 (3), 84.07 (1) and (2), 84.09 (1), (3) (a) to (c) and

(4), 84.10 (1), 86.04 (1) and (2), 86.07 (2) (a), 86.19 (3), 86.34 (1m), 114.33 (5), 349.07 (2), 349.11 (4) and (10) and 349.15 (2). No statutory power, duty or function specified elsewhere for the county highway commissioner may be deemed impliedly repealed for the sole reason that reference to it has been omitted in this paragraph.

SECTION 3. 86.07 (2) of the statutes is renumbered 86.07 (2) (a) and amended to read:

86.07 (2) (a) No Subject to par. (b) and s. 86.16 (1m) (a) 2. and (c), no person shall make any excavation or fill or install any culvert or make any other alteration in any highway or in any manner disturb any highway or bridge without a permit therefor from the highway authority maintaining the highway. Such permit shall contain the statement and be subject to the condition that the work shall be constructed subject to such rules and regulations as may be prescribed by said authority and be performed and completed to its satisfaction, and in the case of temporary alterations that the highway or bridge shall be restored to its former condition, and that the permittee shall be liable to the town or county or state, as the case may be, for all damages which occur during the progress of said work or as a result thereof. Nothing herein shall abridge the right of the department or the county board or its highway committee, or any other local authority to make such additional rules, regulations and conditions

* Section 991.11, WISCONSIN STATUTES: 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."

not inconsistent herewith as may be deemed necessary and proper for the preservation of highways, or for the safety of the public, and to make the granting of any such permit conditional thereon. If any culvert is installed or any excavation or fill or any other alteration is made in violation of the provisions of this subsection paragraph, the highway or bridge may be restored to its former condition by the highway authority in charge of the maintenance thereof at the expense of the violator; and any person who violates this subsection paragraph shall be punished by a fine of not less than \$5 ~~\$100~~ \$50 nor more than ~~\$100~~ \$500, or by imprisonment not exceeding 6 months, or both.

SECTION 4. 86.07 (2) (b) of the statutes is created to read:

86.07 (2) (b) 1. In this paragraph:

a. "Manure hose" means any hose, pipeline, or other conduit, whether temporary or permanent in nature, for the transmission of liquid manure within or across the right-of-way of a highway to a destination for spreading in a farm field or for storage.

b. "State trunk highway" has the meaning given in s. 340.01 (60).

c. "Support structure" means a bridge, a box culvert, or any other structure that is less than 20 feet in length and capable of supporting a manure hose.

2. A permit may not be issued by a local highway authority under par. (a) for a manure hose that is subterranean. Section 86.16 applies with respect to any manure hose that is subterranean and that is laid out or installed within or across the right-of-way of a highway maintained by the local highway authority.

3. For a manure hose that is not subterranean and is not laid out or installed within or across the right-of-way of a state trunk highway, a permit issued under par. (a) that authorizes the permittee to lay out or install the manure hose within or across the right-of-way of a highway may also authorize the permittee to temporarily affix to a support structure under the jurisdiction of the local highway authority issuing the permit hooks, flanges, fasteners, or other devices to or by which a manure hose may be attached or supported. The local highway authority may require the applicant for the permit to submit with the application, for the local highway authority's approval, a plan specifying how the manure hose would be attached to or supported by the support structure. The permit may impose reasonable conditions related to the authorization under this subdivision, including any of the following:

a. Requiring removal of the hooks, flanges, fasteners, or other devices, at the permittee's expense, at any time, or under any circumstances, specified in the permit.

b. Making the permittee liable to the issuing authority for any damage caused to the support structure by the installation or removal of the hooks, flanges, fasteners, or other devices.

SECTION 5. 86.073 (1) of the statutes is amended to read:

86.073 (1) If a district office of the department denies a request for a permit under s. 86.07 (2) (a) to construct an entrance to a state trunk highway from abutting premises or revokes a permit issued under s. 86.07 (2) (a), the department shall, upon written request by the applicant within 30 days after the denial, review the decision of the district office.

SECTION 6. 86.16 (1) of the statutes is amended to read:

86.16 (1) Any person, firm, or corporation, including any foreign corporation authorized to transact business in this state, may, subject to ss. 30.44 (3m), 30.45 and 196.491 (3) (d) 3m., with the written consent of the department with respect to state trunk highways, and with the written consent of local authorities with respect to highways under their jurisdiction, including connecting highways, construct and operate telegraph, telephone, or electric lines, or pipes or pipelines, for the purpose of transmitting messages, water, liquid manure, heat, light, or power along, across, or within the limits of the highway.

SECTION 7. 86.16 (1m) of the statutes is created to read:

86.16 (1m) (a) If a pipe or pipeline transmitting liquid manure along, across, or within the limits of a highway under the jurisdiction of a local authority is not subterranean, all of the following apply:

1. Subject to par. (c), a person holding a permit issued by the local authority under s. 86.07 (2) for a manure hose that is the pipe or pipeline is not required to obtain written consent for the pipe or pipeline under sub. (1).

2. Subject to par. (c), a person may obtain written consent under sub. (1) for the pipe or pipeline in lieu of obtaining a permit issued by the local authority under s. 86.07 (2).

(b) Any culvert installed in the ground for the purpose of running through it a hose transmitting liquid manure is considered a pipe or pipeline transmitting liquid manure under sub. (1) and, before such installation, written consent under sub. (1) is required.

(c) A local authority may specify that only the permit described in par. (a) 1. or only the written consent described in par. (a) 2. will be accepted by the local authority as the method for authorizing a pipe or pipeline transmitting liquid manure within or across a highway right-of-way.

SECTION 8. 86.16 (5) of the statutes is amended to read:

86.16 (5) Any person, firm, or corporation whose written application for permission to construct such lines, pipes, or pipelines within the limits of a highway has been refused, or has been on file with the department or local authority for 20 days and no action has been taken thereon, may file with the department or local authority

a notice of appeal to the division of hearings and appeals. The department or local authority shall thereupon return all of the papers and action of the department or local authority to the division of hearings and appeals, and the division of hearings and appeals shall hear and try and determine the appeal on 10 days' notice to the department or local authority, and the applicant. The order entered by the division of hearings and appeals shall be final.

SECTION 9. 88.68 (4) of the statutes is amended to read:

88.68 (4) Whenever the cleaning out, deepening or

reconstruction of a drain crossing a public highway requires the lowering of a culvert through such highway in order to provide effective drainage, the drainage board may proceed to lower such culvert only after obtaining a permit under s. 86.07 (2) (a). In lieu of issuing a permit, the authority in charge of maintenance of the highway may proceed to do the work itself. Except as provided in s. 86.075, the expenses involved in such lowering shall be borne by the drainage district, or as provided by mutual agreement between the highway authority and the drainage board.
