



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBs0230/1
RNK&EHS:ahc

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 421**

January 11, 2016 – Offered by Representative SWEARINGEN.

1 **AN ACT** *to create* 895.5265 of the statutes; **relating to:** an exemption from civil
2 liability related to the placement of certain structures in navigable waters and
3 wetlands.

Analysis by the Legislative Reference Bureau

This substitute amendment provides certain persons with immunity from civil liability for damage or injury caused by the placement of a structure in a navigable water or wetland.

Under the substitute amendment a person is immune from civil liability if the person is authorized, or acts under the direction of a person who is authorized, to place the structure in the navigable water or wetland in accordance with a permit or other approval issued by the Department of Natural Resources. A person is also immune from civil liability if the person is exempt from any requirement to obtain a permit from DNR to place the structure in the navigable water or wetland or the person is acting under the direction of a person who has received such an exemption. In order to be immune from civil liability, the person must have placed the structure for the purpose of fish and wildlife habitat creation, protection, or improvement or the structure must be a net pen that is used to hold and rear fish and that meets certain other requirements.

Under the substitute amendment, a person is also immune from civil liability if the structure was placed as described above on the bed of a navigable water or in

a wetland on or adjacent to the person's property by a predecessor in title to the property.

The substitute amendment also provides that a person who is entitled to immunity from civil liability as described above does not owe any other person a duty to inspect or maintain the structure, to give warning of the existence of the structure, or to give warning of an unsafe condition caused by the structure.

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

1 **SECTION 1.** 895.5265 of the statutes is created to read:

2 **895.5265 Civil liability exemption; placement of certain structures in**
3 **waterways.** (1) In this section, "department" means the department of natural
4 resources.

5 (2) A person is immune from civil liability for damage to personal property,
6 injury to a person, or death caused by placing a structure on the bed of a navigable
7 water or in a wetland if the structure is placed for the purpose of fish and wildlife
8 habitat creation, protection, or improvement or if the structure is a net pen that
9 meets the requirements under s. 30.12 (3) (b) 1. a., b., and c., and if any of the
10 following applies:

11 (a) The department authorized the person to place the structure under a permit
12 or other approval issued under subch. II of ch. 30 or under s. 281.36 and the person
13 placed the structure in accordance with the permit or other approval.

14 (b) The person is exempt from any permit requirement under subch. II of ch.
15 30 or under s. 281.36 and the structure is placed in a manner that meets the
16 exemption requirements.

17 (c) The person is acting under the direction of a person described under par. (a)
18 or (b).

