

CURRENT WISCONSIN STATUTES GIVE HAZARDOUS WAKES A PASS

**BOATING LAWS WERE WRITTEN BEFORE WAKE
SURFING EXISTED – NO SURPRISE THEY DON'T COVER
THE UNIQUE PROBLEMS IT CREATES**

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A FEW WORDS REGARDING VIEWPOINTS

- None of us want a “we” vs “they” approach to this issue
- We all want the best for our lakes and for our people and for our economy
- My purpose here isn’t to argue we should not have wake surfing
- My purpose is simple -- to present information regarding what protection current laws provide, whether we need local regulation and how to go about making ordinances, if you decide they are appropriate for your town
- While some won’t agree with my views, I hope the facts and views I bring are helpful even to folks feeling we should wholly rely on “education, not regulation”

SOME WAKE SURFING FANS SAY
“EXISTING LAWS ARE FINE AS IS”

JUDGE FOR YOURSELF

WHAT DOES WISCONSIN LAW PERMIT ?

1. CHURNING LAKEBED WITH DOWNWARD PROP WASH **ALLOWED**
2. UPROOTING WATER PLANTS **ALLOWED**
3. CREATING MURKY WATER **ALLOWED**
4. DESTROYING FISH SPAWNING BEDS **ALLOWED**
5. FERTILIZING ALGAE BLOOMS **ALLOWED**
6. SWAMPING LOON NESTS **ALLOWED**
7. ERODING SHORELINE, DAMAGING DOCKS **ALLOWED***

WHAT DOES WISCONSIN LAW PERMIT?

8. TRANSFERRING INVASIVES VIA RESIDUAL BALLAST WATER **ALLOWED***
9. JETTING PROP WASH INTO THE THERMOCLINE **ALLOWED**
10. ENDANGERING OTHERS THROUGH BAD FORWARD VISIBILITY **ALLOWED**
11. ENDANGERING OTHERS THROUGH HAZARDOUS WAKES **ALLOWED***
12. MAKING THE LAKE UNUSABLE BY OTHERS NEARBY **ALLOWED**
13. DAMAGING THE LOCAL ECONOMY **ALLOWED**

WHAT RELEVANT LAWS DO WE HAVE ? JUST THESE...

- 1. A law setting distance from shore and minimum lake size**
- 2. A law regarding safety in an “approach or pass” of another boat**
- 3. A law permitting anyone harmed by a wake to sue for damages**
- 4. A law addressing “negligent operation” of a boat**
- 5. DNR regs re transporting invasives and draining ballast tanks**

LAWS REGARDING WAKES NEAR SHORE

- **Wisconsin laws re no wake zones:**
 - sets a 100-foot from shore “no-wake zone”
 - makes lakes under 50 acres wholly “no-wake zones”
- **These laws were established decades ago and were adequate for ski and fishing boats**
- **But they did not take into account wake surf boats, which make wakes up to 4.5 feet high**

LAW COVERING APPROACHING OTHER BOATS

- Wisconsin Stat. 30.68 (4) (a) *“No person shall operate a motorboat so as to approach or pass another boat in such a manner as to create a hazardous wake or wash.”*
- Statute only covers boats near one another– “**approach or pass**”
- The powerful waves of wake surfing threaten boats far away. Not covered by “**approach or pass**”
- No protection at all for the environment

LAW COVERING INJURY AND PROPERTY DAMAGE

- Wisconsin Statute 30.68 (4) (b) “An operator of a motorboat is liable for any damage caused to the person or property of another by the wake or wash from such motorboat...”

THIS STATUTE IS VIRTUALLY WORTHLESS:

- It does not restrict making a hazardous wake
- It can only be enforced by paying a lawyer to file a lawsuit
- It simply permits anyone who can prove damage or injury to file a lawsuit for money damages. (good luck with that!)
- There is no protection at all for the lake itself or the environment

LAW REGARDING NEGLIGENT OPERATION

- Wisconsin Stat. 30.68 (2)-- *“No person may use or operate any boat... in a **careless, negligent or reckless** manner so as to endanger that person’s life, property or person or the life, property or person of another.”*
- This statute applies **ONLY** if “careless, negligence or reckless” can be proven
 - **Wakeboat owners will argue that operating a wake boat for its intended purpose in full compliance with Wisconsin laws is not “careless, negligent or reckless”**

DNR REGULATIONS REGARDING INVASIVES TRANSFER

- NR 19.055—*“Any person who removes a boat... from any inland or outlying water... shall drain all water from the boat... including any water in any ... ballast tank... immediately after removing the boat...”*
- NR 40-- makes it illegal to possess or transport certain invasives species
- Wake surf boats with integrated ballast tanks cannot be fully emptied
- Thus, each time a ballasted boat is removed from a lake, the operator violates Wisconsin law
- **The DNR advises they cannot enforce and do not enforce this law because they cannot inspect sealed ballast tanks**

IF SPINY WATER FLEAS COULD INVENT... THEY WOULD HAVE INVENTED THE WAKE SURF BOAT

- **Wisconsin Law forbids removing from any lake a boat with water in the ballast tank**
- **BUT... the DNR says it cannot enforce this.... This allows ballasted boats with up to 20 gallons of lake water to be moved between lakes**
- **The Spiny Water Flea and other invasives are major threats to lakes**
- **Surf boat owners should have their ballast tanks fully emptied and cleaned before moving them out of a lake**
- **The DNR states that the following Vilas County Lakes have the Spiny Water Flea: **Trout, Star, Stormy, Plum, Ike Walton****

I FAULT THE BOAT MANUFACTURERS

- Boat manufacturers are very aware that most states have laws mandating that ballast tanks be emptied. Yet they design and sell boats that make this impossible
- It would have been a minor challenge and cost for the manufacturers to design the ballast system that could be pressurized, and the water blown out at the landing
- Likewise, it would be easy to design boats to accept fittings at their ballast intakes for hot water injection and decontamination
- Yet, the manufacturers made the decision they would spend nothing to prevent invasives and the need for up to 8 gallons of antifreeze
- Why should our lakes suffer because boat manufacturers chose to shave production costs?

SO, WHAT TO DO?

- **WISCONSIN BOATING LAW WAS DRAFTED BEFORE WAKE BOATS EXISTED. IT IS INADEQUATE FOR THE NEW ENVIRONMENTAL AND SAFETY ISSUES OF WAKE SURFING**
- **WHILE MANY WAKE SURFERS ARE CAREFUL, OTHERS ABUSE THE LEGAL VACUUM, OPERATING WHEREVER/HOWEVER THEY WISH**
- **UNTIL WISCONSIN ACTS, WE SHOULD ESTABLISH LOCAL LAWS**

SYNTHESIS OF WISCONSIN LAW

IF YOU ARE OVER 100 FEET FROM SHORE AND ON A LAKE ABOVE 50 ACRES AND DON'T "PASS OR APPROACH" A BOAT, WISCONSIN DOES NOT RESTRICT HAZARDOUS WAKES OR WAKE SURFING

If a wake causes injury or private property damage, Wisconsin will let you sue for damages—

- 1. IF YOU CAN PROVE WHO CAUSED THE DAMAGE... AND**
- 2. IF YOU CAN PROVE THE DAMAGE DID NOT PREVIOUSLY EXIST ... AND**
- 3. IF YOU CAN AFFORD THE ENORMOUS COST OF A LAWSUIT ... AND**
- 4. IF YOU CAN WAIT THE TWO TO FOUR YEARS IT TAKES TO GET TO TRIAL ... AND**
- 5. IF YOU CAN AFFORD THE GREAT EMOTIONAL TOLL OF A LAWSUIT**

BACKUP SLIDES

<https://www.guinnpartners.com/boat-testing/>

