

Traffic rules.

- (1) MEETING; OVERTAKING; RIGHT-OF-WAY. Every person operating a boat shall comply with the following traffic rules, except when deviation therefrom is necessary to comply with federal pilot rules while operating on the navigable waters of the United States:
- (a) When 2 motorboats are approaching each other "head and head," or so nearly so as to involve risk of collision, each boat shall bear to the right and pass the other boat on its left side.
 - (b) When 2 motorboats are approaching each other obliquely or at right angles, the boat which has the other on her right shall yield the right-of-way to the other. "Right" means from dead ahead, clockwise to 2 points abaft the starboard beam.
 - (d) When a motorboat and a boat propelled entirely by sail or muscular power are proceeding in such a direction as to involve risk of collision, the motorboat shall yield the right-of-way to the other boat.
 - (e) A boat may overtake and pass another boat on either side if it can be done with safety but the boat doing the overtaking shall yield the right-of-way to the boat being overtaken, notwithstanding any other rule in this section to the contrary.
 - (f) A boat granted the right-of-way by this section shall maintain her course and speed, unless to do so would probably result in a collision.
- (2) ADDITIONAL TRAFFIC RULES. The department may promulgate such additional traffic rules as it deems necessary in the interest of public safety. Such rules shall conform as nearly as possible to the federal pilot rules.

History: 1985 a. 332 s. 251 (1); 1993 a. 490.

30.66 Speed restrictions.

- (1) SPEED TO BE REASONABLE AND PRUDENT. No person shall operate a motorboat at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. The speed of a motorboat shall be so controlled as to avoid colliding with any object lawfully in or on the water or with any person, boat or other conveyance in or on the water in compliance with legal requirements and exercising due care.
- (2) FIXED LIMITS. In addition to complying with sub. (1), no person may operate a motorboat at a speed in excess of the posted notice as established by regulatory markers.
- (3) PROHIBITED OPERATION.
- (a) No person may operate a motorboat within 100 feet of any dock, raft, pier, or buoyed restricted area on any lake at a speed in excess of slow-no-wake.
 - (ag)
 1. Except as provided in subd. 2., no person may operate a motorboat, other than a personal watercraft, at a speed in excess of slow-no-wake within 100 feet of the shoreline of any lake.
 2. In its ordinances enacted under s. 30.77, a city, village, town, public inland lake protection and rehabilitation district, or a town sanitary district may provide an exemption from the prohibition in subd. 1. or may substitute a lesser number of feet.
 3. This paragraph does not affect any of the following:
 - a. The authority of a local governmental unit specified in subd. 2. to enact more restrictive ordinances under s. 30.77.
 - b. The authority of the Dane County board to enact more restrictive ordinances under s. 33.455 (3).
 - (ar) No person may operate a personal watercraft at a speed in excess of slow-no-wake within 200 feet of the shoreline of any lake.
 - (b) No person may operate a personal watercraft at a speed in excess of slow-no-wake within 100 feet of any other boat.
 - (c) Paragraphs (a) to (b) do not apply to pickup or drop areas that are marked with regulatory markers and that are open to operators of personal watercraft and to persons and motorboats engaged in water skiing or similar activity.

History: 1973 c. 302; 1981 c. 303; 1991 a. 257; 1997 a. 198; 2009 a. 31.

Cross-reference: See also s. NR 5.001, Wis. adm. code.

30.67 Accidents and accident reports.

- (1) DUTY TO RENDER AID. Insofar as the operator of a boat can do so without serious danger to the operator's boat or to persons on board, the operator of a boat involved in a boating accident shall stop the operator's boat and render to other persons affected thereby such assistance as may be practicable and necessary to save them from or minimize any danger caused by the accident. The operator shall give the operator's name and address and identification of the operator's boat to any person injured and to the owner of any property damaged in the accident.

(2) DUTY TO REPORT.

- (a) If a boating accident results in death or injury to any person, the disappearance of any person from a boat under circumstances indicating death or injury, or property damage, every operator of a boat involved in an accident shall, without delay and by the quickest means available, give notice of the accident to a conservation warden or local law enforcement officer and shall file a written report with the department on the form prescribed by it. The department shall promulgate rules necessary to keep accident reporting requirements in conformity with rules adopted by the U.S. coast guard.
- (b) If the operator of a boat is physically incapable of making the report required by this subsection and there was another occupant in the boat at the time of the accident capable of making the report the other occupant shall make such report.

(3) TERMS DEFINED. In this section:

- (a) "Boating accident" means a collision, accident or other casualty involving a boat.
- (b) "Injury" means any injury of a physical nature resulting in medical treatment, disability for more than 24 hours or loss of consciousness.
- (c) "Total property damage" means the sum total cost of putting the property damaged in the condition it was in before the accident, if repair thereof is practical, and if not practical, the sum total cost of replacing the property.

(4) REPORTS CONFIDENTIAL. No report required by this section to be filed with the department shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has or claims to have made such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made.**(5) TRANSMITTAL OF INFORMATION TO FEDERAL AND STATE AUTHORITIES.** If any request for information available on the basis of reports filed pursuant to this section is duly made by an authorized official or agency of the U.S. government or of the state which registered the boat involved or the state where the accident occurred, the department shall compile and furnish such information in accordance with such request.**(6) CORONERS AND MEDICAL EXAMINERS TO REPORT; REQUIRE BLOOD SPECIMEN.**

- (a) Every coroner or medical examiner shall on or before the 10th day of each month report in writing to the department the death of any person within his or her jurisdiction during the preceding calendar month as the result of an accident involving a boat and the circumstances of the accident.
- (b) In cases of death involving a boat in which the person died within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from the body of the decedent within 12 hours after his or her death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of the physician. All funeral directors, as defined in s. 445.01 (5), shall obtain a release from the coroner or medical examiner prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the state health officer for analysis of the alcoholic content of the blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each analysis to the state health officer. The state health officer shall keep a record of all examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the state health officer. The department shall reimburse coroners and medical examiners for the costs incurred in submitting reports and taking blood specimens and laboratories for the costs incurred in analyzing blood specimens under this section.

History: 1973 c. 302; 1979 c. 275; 1989 a. 359; 1991 a. 316; 2005 a. 266.

Cross-reference: See also s. NR 5.08, Wis. adm. code.

30.675 Distress signal flag. The display on a boat or by a person of an orange flag approximately 18 by 30 inches in size shall indicate that such boat or person is in need of help.

- (1) Insofar as is possible without serious danger to the operator's boat or persons on board, the operator of a boat observing a distress signal shall render to the boat or person displaying the signal such assistance as may be practicable and necessary to save the boat or person or to minimize any danger to them.
- (2) No person shall display a flag like that described in sub. (1) unless such person is in need of assistance to prevent bodily injury or destruction of property.

History: 1991 a. 316.

30.678 Boating safety certificates; requirements; exemptions; operation by minors.**(1) MOTORBOATS OTHER THAN PERSONAL WATERCRAFT.**

- (a) No person under 10 years of age may operate a motorboat.

- (b) No person who is at least 10 years of age but under 12 years of age may operate a motorboat unless he or she is accompanied in the motorboat by a parent or guardian or by a person who is at least 18 years of age and who is designated by a parent or guardian.
- (c) No person who is at least 12 years of age but under 16 years of age may operate a motorboat unless one of the following applies:
 1. The person holds a valid boating safety certificate issued under s. 30.74 (1) (a) or a valid boating safety certificate that is honored under s. 30.74 (1) (c).
 2. The person is accompanied in the motorboat by a parent or guardian or by a person who is at least 18 years of age and who is designated by a parent or guardian.
- (d) No person who was born on or after January 1, 1989, and who is 16 years of age or older may operate a motorboat unless the person holds a valid safety certificate issued under s. 30.74 (1) (a) or a valid boating safety certificate that is honored under s. 30.74 (1) (c).
- (e) Paragraphs (a) to (d) do not apply to the operation of a personal watercraft.
- (2) PERSONAL WATERCRAFT.**
 - (a) No person under 12 years of age may operate a personal watercraft.
 - (b) No person who is 12 years of age or older but under 16 years of age may operate a personal watercraft unless he or she is in possession of a valid certificate issued under s. 30.74 (1) (a) or a valid boating safety certificate that is honored under s. 30.74 (1) (c).
 - (c) No person who was born on or after January 1, 1989, and who is 16 years of age or older may operate a personal watercraft unless the person holds a valid safety certificate issued under s. 30.74 (1) (a) or a valid boating safety certificate that is honored under s. 30.74 (1) (c).
- (2m) PROOF OF CERTIFICATE.** Any person who is required to hold a safety certificate issued under s. 30.74 (1) (a) while operating a motorboat shall carry proof that the person holds a valid safety certificate and shall display such proof to a law enforcement officer on request.
- (3) EXEMPTION.** Subsections (1) (b), (c), and (d) and (2) (b) and (c) do not apply to a person while the person is operating a motorboat as may be required as part of a boating safety course under s. 30.74 (1).
- (4) PARENT AND GUARDIAN LIABILITY.** A violation of sub. (1) (a), (b), (c), or (d) or (2) (a), (b), or (c) that is done with the knowledge of a parent or guardian shall be considered a violation by the parent or guardian and shall be punishable under s. 30.80.

History: 2005 a. 356 ss. 1m to 3, 7, 9, 10; 2015 a. 89.

Cross-reference: See also s. NR 5.16, Wis. adm. code.

30.68 Prohibited operation.

- (2) NEGLIGENCE OPERATION.** No person may operate or use any boat, or manipulate any water skis, aquaplane or similar device upon the waters of this state 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.
- (3) OPERATION BY INCAPACITATED PERSON.** No person in charge or control of a boat shall authorize or knowingly permit the boat to be operated by any person who by reason of physical or mental disability is incapable of operating such boat under the prevailing circumstances.
- (4) CREATING HAZARDOUS WAKE OR WASH.**
 - (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.
 - (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 unless the negligence of such other person was the primary cause of the damage.
- (4m) FACING BACKWARDS.** No person may operate a personal watercraft while facing backwards.
- (5) OPERATING IN CIRCULAR COURSE.** No person may operate a motorboat repeatedly in a circuitous course around any other boat, or around any person who is swimming, if such circuitous course is within 200 feet of such boat or swimmer; nor shall any boat or water skier operate or approach closer than 100 feet to any skin diver's flag or any swimmer unless the boat is part of the skin diving operation or is accompanying the swimmer, or unless physical conditions make compliance impossible.
- (5m) TOWING BY A PERSONAL WATERCRAFT.** A person may use a personal watercraft to tow a stranded or disabled boat if, during towing, the speed of the personal watercraft does not exceed slow-no-wake.

- (6) RIDING ON DECKS AND GUNWALES.** No person operating a motorboat may ride or sit, or may allow any other person in the motorboat to ride or sit, on the gunwales, tops of seat backs or sides or on the decking over the bow of the boat in an unsafe manner while under way, unless such person is inboard of guards or railings provided on the boat to prevent persons from being lost overboard. Nothing in this section shall be construed to prohibit entry upon the decking over the bow of the boat for the purpose of anchoring, mooring or casting off or other necessary purpose.
- (7) RESTRICTED AREAS.** No person shall operate a boat within a water area which has been clearly marked by buoys or some other distinguishing device as a bathing or swimming area; nor operate a boat in restricted use areas contrary to regulatory notice pursuant to s. 30.74 (2).
- (8) ANCHORING IN TRAFFIC LANES.** No person may anchor, place, affix or abandon any unattended boat, raft, float or similar structure in the traveled portion of any river or channel or in any traffic lane established and legally marked, so as to prevent, impede or interfere with the safe passage of any other boat through the same.
- (8m) MOORING.**
- (a)** No person may use a mooring or attach a boat to a mooring buoy if the mooring or mooring buoy violates s. 30.772 or 30.773.
- (b)** No person may use a piling for mooring a boat, except for mooring a boat in Lake Michigan or Lake Superior or on the Mississippi River.
- (9) OVERLOADING.** No person may operate, and no owner of a boat may allow a person to operate, a boat that is loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other existing operating conditions.
- (11) UNNECESSARILY SOUNDING WHISTLES.** No person shall unnecessarily sound a horn, whistle or other sound-producing device on any boat while at anchor or under way. The use of a siren on any boat except a patrol boat on patrol or rescue duty is prohibited.
- (12) MOLESTING OR DESTROYING AIDS TO NAVIGATION AND REGULATORY MARKERS.** No unauthorized person shall move, remove, molest, tamper with, destroy or attempt to destroy, or moor or fasten a boat (except to mooring buoys) to any navigation aids or regulatory markers, signs or other devices established and maintained to aid boaters.

History: 1971 c. 40 s. 93; 1971 c. 219; 1973 c. 302; 1975 c. 22, 39; 1983 a. 459; 1985 a. 146 s. 8; 1985 a. 243, 331; 1991 a. 257, 316; 1993 a. 236; 1997 a. 198; 2005 a. 308, 356.

Cross-reference: See also s. NR 5.001, Wis. adm. code.

30.681 Intoxicated boating.

- (1) OPERATION.**
- (a) Operating while under the influence of an intoxicant.** No person may engage in the operation of a motorboat while under the influence of an intoxicant to a degree which renders him or her incapable of safe motorboat operation.
- (b) Operating after using a controlled substance or alcohol.**
1. No person may engage in the operation of a motorboat while the person has an alcohol concentration of 0.08 or more. This subdivision does not apply to commercial motorboats.
 - 1m. No person may engage in the operation of a motorboat while the person has a detectable amount of a restricted controlled substance in his or her blood.
 2. No person may engage in the operation of a commercial motorboat while the person has a blood alcohol concentration of 0.04 percent or more by weight of alcohol in his or her blood. No person may engage in the operation of a commercial motorboat while the person has 0.04 grams or more of alcohol in 210 liters of his or her breath.
- (bn) Operating with alcohol concentrations at specified levels; below legal drinking age.** A person who has not attained the legal drinking age, as defined in s. 125.02 (8m), may not engage in the operation of a motorboat while he or she has a blood alcohol concentration of more than 0.0 but less than 0.08.
- (c) Related charges.** A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a) or (b) 1., 1m., or 2., the offenses shall be joined. If the person is found guilty of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs (a) and (b) 1., 1m., and 2. each require proof of a fact for conviction which the others do not require.
- (d) Defenses.** In an action under par. (b) 1m. that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she

had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(2) CAUSING INJURY.

- (a) *Causing injury while under the influence of an intoxicant.*** No person while under the influence of an intoxicant to a degree which renders him or her incapable of safe motorboat operation may cause injury to another person by the operation of a motorboat.
- (b) *Causing injury after using a controlled substance or alcohol.***
- 1.** No person who has an alcohol concentration of 0.08 or more may cause injury to another person by the operation of a motorboat. This subdivision does not apply to commercial motorboats.
 - 1m.** No person who has a detectable amount of a restricted controlled substance in his or her blood may cause injury to another person by the operation of a motorboat.
 - 2.** No person who has a blood alcohol concentration of 0.04 percent or more by weight of alcohol in his or her blood may cause injury to another person by the operation of a commercial motorboat. No person who has 0.04 grams or more of alcohol in 210 liters of his or her breath may cause injury to another person by the operation of a commercial motorboat.
- (c) *Related charges.*** A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the complaint, the crimes shall be joined under s. 971.12. If the person is found guilty of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs (a) and (b) 1., 1m., and 2. each require proof of a fact for conviction which the others do not require.

(d) *Defenses.*

1.

- a.** In an action under this subsection for a violation of the intoxicated boating law where the defendant was operating a motorboat that is not a commercial motorboat, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant or did not have an alcohol concentration of 0.08 or more or a detectable amount of a restricted controlled substance in his or her blood.
 - b.** In an action under par. (b) 1m. that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.
- 2.** In an action under this subsection for a violation of the intoxicated boating law where the defendant was operating a commercial motorboat, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant or did not have a blood alcohol concentration of 0.04 percent or more by weight of alcohol in his or her blood or 0.04 grams or more of alcohol in 210 liters of his or her breath.

History: 1985 a. 331; 1989 a. 275; 1995 a. 290, 436; 1997 a. 35, 198; 2003 a. 30, 97, 326.

30.682 Preliminary breath screening test.

- (1) REQUIREMENT.** A person shall provide a sample of his or her breath for a preliminary breath screening test if a law enforcement officer has probable cause to believe that the person is violating or has violated the intoxicated boating law and if, prior to an arrest, the law enforcement officer requested the person to provide this sample.
- (2) USE OF TEST RESULTS.** A law enforcement officer may use the results of a preliminary breath screening test for the purpose of deciding whether or not to arrest a person for a violation of the intoxicated boating law or for the purpose of deciding whether or not to request a chemical test under s. 30.684. Following the preliminary breath screening test, chemical tests may be required of the person under s. 30.684.
- (3) ADMISSIBILITY.** The result of a preliminary breath screening test is not admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to show that a chemical test was properly required of a person under s. 30.684.
- (4) REFUSAL.** There is no penalty for a violation of sub. (1). Section 30.80 (1) and the general penalty provision under s. 939.61 do not apply to that violation.

History: 1985 a. 331.

30.683 Implied consent. Any person who engages in the operation of a motorboat upon the waters of this state is deemed to have given consent to provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis as required under s. 30.684. Any person who engages in the operation of a motorboat upon the waters of this state is deemed to have given consent to submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis as required under s. 30.684.

History: 1985 a. 331.

30.684 Chemical tests.

(1) REQUIREMENT.

- (a) *Samples; submission to tests.* A person shall provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated boating law and if he or she is requested to provide the sample by a law enforcement officer. A person shall submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated boating law and if he or she is requested to submit to the test by a law enforcement officer.
- (b) *Information.* A law enforcement officer requesting a person to provide a sample or to submit to a chemical test under par. (a) shall inform the person at the time of the request and prior to obtaining the sample or administering the test:
1. That he or she is deemed to have consented to tests under s. 30.683;
 2. That a refusal to provide a sample or to submit to a chemical test constitutes a violation under sub. (5) and is subject to the same penalties and procedures as a violation of s. 30.681 (1) (a); and
 3. That in addition to the designated chemical test under sub. (2) (b), he or she may have an additional chemical test under sub. (3) (a).
- (c) *Unconscious person.* A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person violated the intoxicated boating law, one or more chemical tests may be administered to the person without a request under par. (a) and without providing information under par. (b).

(2) CHEMICAL TESTS.

- (a) *Test facility.* Upon the request of a law enforcement officer, a test facility shall administer a chemical test of breath, blood or urine for the purpose of authorized analysis. A test facility shall be prepared to administer 2 of the 3 chemical tests of breath, blood or urine for the purpose of authorized analysis. The department may enter into agreements for the cooperative use of test facilities.
- (b) *Designated chemical test.* A test facility shall designate one chemical test of breath, blood or urine which it is prepared to administer first for the purpose of authorized analysis.
- (c) *Additional chemical test.* A test facility shall specify one chemical test of breath, blood or urine, other than the test designated under par. (b), which it is prepared to administer for the purpose of authorized analysis as an additional chemical test.
- (d) *Validity; procedure.* A chemical test of blood or urine conducted for the purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of the laboratory of hygiene, department of health services and department of transportation under s. 343.305 (6) apply to a chemical test of blood or urine conducted for the purpose of authorized analysis under this section. Blood may be withdrawn from a person arrested for a violation of the intoxicated boating law only by a physician, registered nurse, medical technologist, physician assistant, phlebotomist, or other medical professional who is authorized to draw blood, or person acting under the direction of a physician and the person who withdraws the blood, the employer of that person and any hospital where blood is withdrawn have immunity from civil or criminal liability as provided under s. 895.53.
- (e) *Report.* A test facility which administers a chemical test of breath, blood or urine for the purpose of authorized analysis under this section shall prepare a written report which shall include the findings of the chemical test, the identification of the law enforcement officer or the person who requested a chemical test and the identification of the person who provided the sample or submitted to the chemical test. The test facility shall transmit a copy of the report to the law enforcement officer and the person who provided the sample or submitted to the chemical test.

(3) ADDITIONAL AND OPTIONAL CHEMICAL TESTS.

- (a) *Additional chemical test.* If a person is arrested for a violation of the intoxicated boating law or is the operator of a motorboat involved in an accident resulting in great bodily harm to or the death of someone and if the person is requested to provide a sample or to submit to a test under sub. (1) (a), the person may request the test facility to administer the additional chemical test specified under sub. (2) (c) or, at his or her own expense, reasonable opportunity

to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis.

- (b) *Optional test.* If a person is arrested for a violation of the intoxicated boating law and if the person is not requested to provide a sample or to submit to a test under sub. (1) (a), the person may request the test facility to administer a chemical test of his or her breath or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis. If a test facility is unable to perform a chemical test of breath, the person may request the test facility to administer the designated chemical test under sub. (2) (b) or the additional chemical test under sub. (2) (c).
- (c) *Compliance with request.* A test facility shall comply with a request under this subsection to administer any chemical test it is able to perform.
- (d) *Inability to obtain chemical test.* The failure or inability of a person to obtain a chemical test at his or her own expense does not preclude the admission of evidence of the results of a chemical test required and administered under subs. (1) and (2).
- (4) **ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE.** The results of a chemical test required or administered under sub. (1), (2) or (3) are admissible in any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have violated the intoxicated boating law on the issue of whether the person was under the influence of an intoxicant or the issue of whether the person had alcohol concentrations at or above specified levels or a detectable amount of a restricted controlled substance in his or her blood. Results of these chemical tests shall be given the effect required under s. 885.235. This section does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.
- (5) **REFUSAL.** No person may refuse a lawful request to provide one or more samples of his or her breath, blood or urine or to submit to one or more chemical tests under sub. (1). A person shall not be deemed to refuse to provide a sample or to submit to a chemical test if it is shown by a preponderance of the evidence that the refusal was due to a physical inability to provide the sample or to submit to the test due to a physical disability or disease unrelated to the use of an intoxicant. Issues in any action concerning violation of sub. (1) or this subsection are limited to:
 - (a) Whether the law enforcement officer had probable cause to believe the person was violating or had violated the intoxicated boating law.
 - (b) Whether the person was lawfully placed under arrest for violating the intoxicated boating law.
 - (c) Whether the law enforcement officer requested the person to provide a sample or to submit to a chemical test and provided the information required under sub. (1) (b) or whether the request and information was unnecessary under sub. (1) (c).
 - (d) Whether the person refused to provide a sample or to submit to a chemical test.

History: 1985 a. 331; 1987 a. 3; 1993 a. 105; 1995 a. 27 s. 9126 (19); 2003 a. 97; 2007 a. 20 s. 9121 (6) (a); 2013 a. 224.

Cross-reference: See also s. NR 5.22, Wis. adm. code.

30.686 Report arrest to department. If a law enforcement officer arrests a person for a violation of the intoxicated boating law or the refusal law, the law enforcement officer shall notify the department of the arrest as soon as practicable.

History: 1985 a. 331.

30.687 Officer's action after arrest for violating intoxicated boating law. A person arrested for a violation of the intoxicating boating law, may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under s. 30.684 (1) (a) shows that the person has an alcohol concentration of 0.05 or less, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

History: 1985 a. 331; 1995 a. 436.

30.69 Water skiing.

(1) PROHIBITED AT CERTAIN TIMES; EXCEPTIONS.

- (a) Except as provided in par. (b), no person may operate a motorboat towing a person on water skis, aquaplane, or similar device unless one of the following applies:
 1. There is in the motorboat a competent person in addition to the operator in a position to observe the progress of the person being towed.
 2. Subject to s. 30.77 (3) (ab), the motorboat is equipped with a mirror that provides the operator with a wide field of vision to the rear.
- (ag) An observer under par. (a) 1. shall be considered competent if that person can in fact observe the person being towed and relay any signals to the operator. This observer requirement does not apply to motorboats classified as Class A

motorboats by the department actually operated by the persons being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.

- (am) No person may engage in water skiing, aquaplaning, or similar activity, at any time from sunset to sunrise. This restriction of the hours of water skiing does not prevent restrictions of the hours of water skiing between sunrise and sunset by local ordinances enacted pursuant to s. 30.77 (3).
 - (b) Paragraphs (a), (ag), and (am) do not apply to duly authorized water ski tournaments, competitions, exhibitions, or trials therefor, where adequate lighting is provided.
 - (c) In addition to complying with pars. (a), (ag), and (am), no person may operate a personal watercraft that is towing a person who is on water skis, an aquaplane, or similar device unless the personal watercraft is designed to seat at least 3 persons.
- (2) CAREFUL AND PRUDENT OPERATION. A person operating a motorboat having in tow a person on water skis, aquaplane or similar device shall operate such boat in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.
- (3) RESTRICTIONS.
- (a) No person operating a motorboat that is towing persons engaged in water skiing, aquaplaning or similar activity may operate the motorboat within 100 feet of any occupied anchored boat, any personal watercraft or any marked swimming area or public boat landing.
 - (b) No person who is engaged in water skiing, aquaplaning or similar activity may get within 100 feet of a personal watercraft or allow the tow rope while in use to get within 100 feet of a personal watercraft.
 - (c) No person may operate a personal watercraft within 100 feet of any of the following:
 1. A motorboat towing a person who is engaged in water skiing, aquaplaning or similar activity.
 2. The tow rope of a motorboat towing a person who is engaged in water skiing, aquaplaning or similar activity.
 3. A person who is engaged in water skiing, aquaplaning or similar activity.
 - (d) Paragraphs (a) to (c) do not apply to pickup or drop areas that are marked with regulatory markers and that are open to operators of personal watercraft and to persons and motorboats engaged in water skiing or similar activity.
- (4) INTOXICATED OPERATION. No person may use water skis, an aquaplane or a similar device while under the influence of an intoxicant to a degree which renders him or her incapable of safely using water skis, an aquaplane or a similar device, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely using water skis, an aquaplane or a similar device.

History: 1973 c. 302; 1985 a. 331; 1991 a. 257, 315, 316; 1993 a. 437; 2009 a. 31; 2017 a. 163.

30.70 Skin diving. No person may engage in underwater diving or swimming with the use of swimming fins or skin diving in waters other than marked swimming areas or within 150 feet of shoreline, and no person may engage in underwater diving or swimming with the use of self-contained underwater breathing apparatus in waters other than marked swimming areas, unless the location of such diving or swimming is distinctly marked by diver's flag, not less than 12 inches high and 15 inches long, displaying one diagonal white stripe 3 inches wide on a red background, and of height above the water so as to be clearly apparent at a distance of 100 yards under normal conditions, and so designed and displayed as to be visible from any point on the horizon. Except in case of emergency, anyone engaging in such diving or swimming shall not rise to the surface outside of a radius of 50 feet from such flag. No person engaged in such diving or swimming shall interfere with the operation of anyone fishing nor engage in such diving or swimming in established traffic lanes; nor shall any such person alone or with another, intentionally or unintentionally, block or obstruct any boat in any manner from proceeding to its destination where a reasonable alternative is unavailable. A reasonable alternative route is available when the otherwise unobstructed boat can proceed to its destination without reducing its lawful speed, by passing to the right or to the left of a marked diving operation.

History: 1973 c. 302.