



D-Note

DOA:.....Grinde - Aquatic plants

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1

DO NOT GEN

AN ACT ...; relating to: the budget.

is required to

cutting, removing, destroying
or suppressing these aquatic plants

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES ✓

OTHER NATURAL RESOURCES ✓

Aquatic plant management

The bill authorizes DNR to establish a program that protects aquatic plants that are native to this state and that regulates the introduction, cultivation, ~~removal~~ and control (management) of aquatic plants. The bill defines controlling aquatic plants to mean ~~using chemicals, biological agents, mechanical means, or processes that involve withholding water, drying, burning, or freezing.~~

Under current law, the only specific authority DNR has regarding aquatic plant management is the authority to develop a statewide program to control purple loosestrife. Under the new program, the types of aquatic plants that will be regulated include Eurasian water milfoil, curly leaf pondweed, and purple loosestrife. Under this program, DNR shall issue aquatic plant management permits. ~~DNR shall promulgate rules to regulate the conditions under which aquatic plants may be managed.~~ These conditions include restrictions on the quantity and species of aquatic plants that are subject to the permit and the areas in which the aquatic plants may be managed. The bill prohibits any person from cultivating or introducing aquatic plants that are not native to this state ~~and, from removing or controlling~~ any type of aquatic plant without such a permit. DNR may establish a

from navigable waters, and from controlling any type of aquatic plants by the use of chemicals,

and to

manually

insert Analysis

fee for this permit. The bill exempts waterfront property owners from this permitting requirement for the manual removal of aquatic plants that are located within 150 feet of the owner's shoreline. The bill also exempts from the permitting requirement the manual removal of aquatic plants to gain access to open water. The bill repeals the current law that makes the cutting of weeds in navigable water a nuisance if such weeds are not removed. District attorneys, DNR, and private individuals may file suit to have a nuisance removed from navigable bodies of water.

Placement of boats and boating equipment in navigable waters

Under current law, a person may not have a boat, a boat trailer, or boating equipment in the lower St. Croix River if the person has reason to believe that the boat, equipment, or trailer has zebra mussels attached. This bill creates a similar law under which a person may not place these items in any navigable water if the person has reason to believe that there is any type of aquatic plant other than wild rice attached to the boat, trailer, or equipment. The bill also authorizes a law enforcement officer, including a conservation warden, to require a person to remove aquatic plants from a boat, a boat trailer, or boating equipment before placing the boat, trailer, or equipment in the water or to require a person to remove a boat, a trailer, or equipment from the water if the law enforcement officer has reason to believe that there are aquatic plants attached.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 23.23 (title) of the statutes is repealed.
- 2 **SECTION 2.** 23.23 (1) of the statutes is repealed.
- 3 **SECTION 3.** 23.23 (2) of the statutes is repealed.
- 4 **SECTION 4.** 23.23 (3) of the statutes is repealed.
- 5 **SECTION 5.** 23.23 (4) (a) of the statutes is repealed.
- 6 **SECTION 6.** 23.23 (4) (b) of the statutes is renumbered 23.235 (4m) and amended
- 7 to read:
- 8 23.235 (4m) The department shall make a reasonable effort to educate the
- 9 authorities in charge of the maintenance of all federal, state, and county trunk
- 10 highways and all forest and park land in this state on methods to identify and control

1 ~~purple loosestrife and multiflora rose. The department of transportation and all~~
2 ~~other authorities in charge of the maintenance of highways, forests, and parks may~~
3 ~~cooperate with the department in efforts under this paragraph subsection.~~

4 SECTION 7. 23.23 (4) (c) of the statutes is repealed.

5 SECTION 8. 23.235 (title) of the statutes is repealed and recreated to read:

6 23.235 (title) Multiflora rose.

7 SECTION 9. 23.235 (1) of the statutes is repealed.

8 SECTION 10. 23.235 (2) of the statutes is amended to read:

9 23.235 (2) Except as provided in sub. (3), no person may sell, offer for sale,
10 distribute, plant, or cultivate any nuisance weed multiflora rose or seeds thereof.

11 SECTION 11. 23.235 (3) of the statutes is amended to read:

12 23.235 (3) The department may conduct research on the control of nuisance
13 weeds multiflora rose. The secretaries of natural resources and of agriculture, trade
14 and consumer protection may authorize any person to plant or cultivate nuisance
15 weeds multiflora rose for the purpose of controlled experimentation.

16 SECTION 12. 23.235 (4) of the statutes is repealed.

17 SECTION 13. 23.24 of the statutes is created to read:

18 23.24 Aquatic plants. (1) DEFINITIONS. In this section:

19 (a) "Aquaculture" has the meaning given in s. 93.01 (1d).

20 (b) "Aquatic plant" means a ^{planktonic,} submergent, emergent, or floating-leaf plant or
21 any part thereof. ~~"Aquatic plant" does not mean wild rice.~~

22 (c) "Control" means to cut, remove, ~~or~~ destroy ^{or suppress} ~~by applying chemicals, by~~
23 ~~introducing biological agents, by using a process that involves dewatering,~~
24 ~~desiccation, burning, or freezing, or by using mechanical means.~~

25 (d) "Cultivate" means to intentionally maintain the growth or existence of.

Insert
3-16

1 (e) "Distribute" means to sell, offer to sell, distribute for no consideration, or
2 offer to distribute for no consideration.

3 (f) "Introduce" means to plant, cultivate, stock, or release.

4 (g) "Invasive aquatic plant" means an aquatic plant that is designated under
5 sub. (2) (b) 1.

6 (h) "Manage" means to introduce, ~~remove~~ or control.

7 (i) "Native" means indigenous to the waters of this state.

8 (j) "Nonnative" means not indigenous to the waters of this state.

9 (k) "Waters of this state" means any surface waters within the territorial limits
10 of this state.

11 (2) PROGRAM ESTABLISHED. (a) The department shall establish a program for
12 the waters of this state to do all of the following:

- 13 1. Protect and develop diverse and stable communities of native aquatic plants.
- 14 2. Regulate how aquatic plants are managed.
- 15 3. Provide education and conduct research concerning invasive aquatic plants.

16 (b) Under the program implemented under par. (a), the department shall do all
17 of the following:

- 18 1. Designate by rule which aquatic plants are invasive aquatic plants for
19 purposes of this section. The department shall designate Eurasian water milfoil,
20 curly leaf pondweed, and purple loosestrife as invasive aquatic plants and may
21 designate any other aquatic plant as an invasive aquatic plant if it has the ability to
22 cause significant adverse change to desirable aquatic habitat, to significantly
23 displace desirable aquatic vegetation, or to reduce the yield of products produced by
24 aquaculture.

1 2. Administer and establish by rule procedures and requirements for the
2 issuing of aquatic plants management permits required under sub. (3).

3 (c) The requirements promulgated under par. (b) 2. may specify any of the
4 following:

5 1. The quantity of aquatic plants that may be managed under an aquatic plant
6 management permit.

7 2. The species of aquatic plants that may be managed under an aquatic plant
8 management permit.

9 3. The areas in which aquatic plants may be managed under an aquatic plant
10 management permit.

11 4. The methods that may be used to manage aquatic plants under an aquatic
12 plant management permit.

13 5. The times during which aquatic plants may be managed under an aquatic
14 plant management permit.

15 6. The allowable methods for disposing or using aquatic plants that are
16 removed or controlled under an aquatic plant management permit.

17 7. The requirements for plans that the department may require under sub. (3)
18 (b).

19 **(3) PERMITS.** (a) Unless a person has a valid aquatic plant management permit
20 issued under the program established under sub. (2), no person may do any of the
21 following ~~in the waters of this state:~~

22 1. Introduce nonnative aquatic plants.

23 2. ^{Manually} Remove aquatic plants ^{from navigable waters} ~~from navigable waters~~ ^{into the waters of this state}

24 3. Control aquatic plants ^{in waters of this state by} ~~in waters of this state by~~ ^{the use of chemicals}

Insert
5.24
↓

1 (b) The department may require that an application for an aquatic plant
2 management permit contain a plan for the department's approval as to how the
3 aquatic plants will be introduced, removed, ~~and~~^{or} controlled.

4 (c) The department may establish ~~a~~^s fee for ~~an~~^s aquatic plant management
5 permit. The department may establish a different fee for an aquatic plant
6 management permit to manage aquatic plants that are located in a body of water that
7 is entirely confined on the property of one property owner.

8 ~~(4) EXEMPTIONS FROM PERMITS. (a) The permit requirement under sub. (3) (a)
9 2. does not apply to a riparian owner who manually removes aquatic plants that are
10 located within 150 feet from any point on the shoreline located within the boundaries
11 of the owner's property.~~

12 ~~(b) The permit requirement under sub. (3) (a) 2. does not apply to any person
13 who manually removes aquatic plants to gain access to open water.~~

14 ~~(c) The department may promulgate a rule to waive the permit requirement
15 under sub. (3) (a) for any body of water that is entirely confined on the property of
16 one property owner.~~

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17 (5) DISTRIBUTION PROHIBITED. No person may distribute an invasive aquatic
18 plant.

19 (6) PENALTIES. (a) Except as provided in par. (b), any person who violates sub.
20 (3) shall forfeit not more than \$200.

21 (b) A person who violates sub. (3) and who, within 5 years before the arrest of
22 the current conviction, was previously convicted of a violation of sub. (3) shall forfeit
23 not less than \$700 nor more than \$2,000 or shall be imprisoned for not less than 6
24 months nor more than 9 months or both.

1 (c) The court may order a person who is convicted under par. (b) to abate any
2 nuisance caused by the violation, restore any natural resource damaged by the
3 violation, or take other appropriate action to eliminate or minimize any
4 environmental damage caused by the violation.

5 (d) A person who violates sub. (5) shall forfeit not more than \$100.

6 **SECTION 14.** 30.124 (1) (intro.) of the statutes is amended to read:

7 30.124 (1) (intro.) Notwithstanding ss. 30.12, 30.125, 30.20, 30.44, and 30.45,
8 and if the department finds that the activity will not adversely affect public or private
9 rights or interests in fish and wildlife populations, navigation, or waterway flood
10 flow capacity and will not result in environmental pollution, as defined in s. 299.01
11 (4), the department may do all of the following on public lands or waters:

12 **SECTION 15.** 30.124 (1) (a) of the statutes is amended to read:

13 30.124 (1) (a) Cut aquatic ~~vegetation~~ plants, as defined in s. 30.715 (1) (a),
14 without removing the ~~vegetation~~ them from the water, for the purpose of improving
15 waterfowl nesting, brood, and migration habitat.

16 **SECTION 16.** 30.125 of the statutes is repealed.

17 **SECTION 17.** 30.715 (1) of the statutes is created to read:

18 30.715 (1) In this section:

19 (a) "Aquatic plant" means a submergent, emergent, or floating-leaf plant or
20 any part thereof. "Aquatic plant" does not mean wild rice.

21 (b) "Public boat access site" means a site that provides access to a navigable
22 water for boats and that is open to the general public for free or for a charge or that
23 is open only to certain groups of persons for a charge.

24 **SECTION 18.** 30.715 (2) of the statutes is created to read:

Insert
7-5 ↓

1 30.715 (2) No person may place or use a boat or boating equipment or place a
2 boat trailer in a navigable water if the person has reason to believe that the boat, boat
3 trailer, or boating equipment has any aquatic plants attached.

4 **SECTION 19.** 30.715 (4) (a) of the statutes is created to read:

5 30.715 (4) (a) Remove aquatic plants from a boat, boat trailer, or boating
6 equipment before placing it in a navigable water

7 **SECTION 20.** 30.715 (4) (b) of the statutes is created to read:

8 30.715 (4) (b) Remove or not place a boat, boat trailer, or boating equipment
9 in a navigable water if the law enforcement officer has reason to believe that the boat,
10 boat trailer, or boating equipment has aquatic plants attached.

11 **SECTION 21.** 30.715 (5) of the statutes is created to read:

12 30.715 (5) (a) The department shall prepare a notice that contains a summary
13 of the provisions under this section and shall make copies of the notice available to
14 owners required to post the notice under par. (b).

15 (b) Each owner of a public boat access site shall post and maintain the notice
16 described in par. (a).

17 **SECTION 22.** 30.725 (title) of the statutes is renumbered 30.715 (title) and
18 amended to read:

19 **30.715 (title) Placement of boats, trailers, and equipment; Lower St.**
20 **Croix River in navigable waters.**

21 **SECTION 23.** 30.725 (1) of the statutes is renumbered 30.715 (3).

22 **SECTION 24.** 30.725 (2) (intro.) of the statutes is renumbered 30.715 (4) (intro.).

23 **SECTION 25.** 30.725 (2) (a) of the statutes is renumbered 30.715 (4) (c).

24 **SECTION 26.** 30.725 (2) (b) of the statutes is renumbered 30.715 (4) (d).

1 **SECTION 27.** 30.725 (3) of the statutes is renumbered 30.715 (6) and amended
2 to read:

3 30.715 (6) No person may refuse to obey the order of a law enforcement officer
4 who is acting under sub. ~~(2)~~ (4).

5 **SECTION 28.** 30.92 (4) (b) 8. b. of the statutes is amended to read:

6 30.92 (4) (b) 8. b. Acquisition of capital equipment that is necessary to cut and
7 remove aquatic plants ~~that are aquatic nuisances or~~ that are detrimental to fish
8 habitat if the acquisition is pursuant to a plan to cut and remove aquatic plants that
9 is approved by the department.

10 **SECTION 29.** 30.92 (4) (b) 8. bp. of the statutes is created to read:

11 30.92 (4) (b) 8. bp. Acquisition of capital equipment that is necessary to control
12 and remove invasive aquatic plants, as defined in s. 23.24 (1) (g), if the equipment
13 will be used to control and remove them as authorized by an aquatic plant
14 management permit issued under s. 23.24 (3).

15 **SECTION 30.** 281.17 (2) of the statutes is amended to read:

16 281.17 (2) The department shall supervise chemical treatment of waters for the
17 suppression of algae, ~~aquatic weeds, swimmers' itch and other nuisance-producing~~
18 ~~plants and organisms that are not regulated by the program established under s.~~
19 23.24 (2). It may purchase equipment and may make a charge for the use of the same
20 and for materials furnished, together with a per diem charge for any services
21 performed in such work. The charge shall be sufficient to reimburse the department
22 for the use of the equipment, the actual cost of materials furnished, and the actual
23 cost of the services rendered.

24 **SECTION 9337. Initial applicability; natural resources.**

LRB-0313/2

Insert Analysis

RNK:

7/6/94

from the permitting requirements, any person who manually removes aquatic plants from privately owned stream beds with the permission of the landowner, and any person ~~who~~ harvesting wild rice. ~~Under existing law~~ ^{(a) CJS} ~~plucking~~ or operating fish farm, as authorized by law.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0313/2ins.
RNK.....

Insert 3-16

SECTION 1, 23.235 (2) of the statutes is amended to read:

23.235 (2) Except as provided in sub. (3), no person may sell, offer for sale, distribute, plant, or cultivate any ~~nuisance weed~~ multiflora rose or seeds thereof.

History: 1987 a. 41; 1999 a. 150 s. 616; Stats. 1999 s. 23.235.

Insert 5-24

4. Control aquatic plants in navigable waters by introducing biological agents, by using a process that involves dewatering, dessication, burning, or freezing, or by using mechanical means.

Insert 6-16

(4) EXEMPTIONS FROM PERMITS. (a) In this subsection:

1. "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of the political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

2. "State agency" means any office, department, independent agency, or attached board or commission within the executive branch of state government, or any special purpose authority created by statute.

(b) The permit requirement under sub. (3) ~~(a) (1)~~ does not apply to any of the following:

1. A person who manually removes aquatic plants from privately owned stream beds ~~with~~ ^{with} the permission of the landowner.

2. A person who harvests ^{ing} wild rice as authorized under s. 29.607. ✓

3. A person who operates ^{ing} ~~as~~ a fish farm ^a (as authorized) under s. 95.60 on a body of water in this

state

engages in an activity listed under sub. (3)(a) ✓ in the course of

^c
(b) The department may promulgate a rule to waive the permit requirement under sub. (3) (a) 2. for any of the following:

1. A person who owns property on which there is a body of water that is ^{entirely} confined ~~to~~ ^{on} the property of that ~~owner~~ ^{person}

2. A riparian owner who manually removes aquatic plants from a body of water that abuts the owner's property provided that the removal does not interfere with the rights of other riparian owners.

3. A person ^{who is} controlling purple loosestrife.

4. A person who uses ~~a chemical treatment~~ ^{chemicals} in a body of water for the purpose of controlling bacteria on bathing beaches or ~~on plants that interfere with the use of~~ ^{the water for potable purposes.}

~~5.~~ ^{6.} A state agency or a local governmental unit that uses a chemical treatment in a body of water for the purpose of protecting the public health.

End of 6-16

Insert 7-5

[#]
SECTION 29.741 (2) of the statutes is amended to read:

29.741 (2) No person shall take, remove, sell, or transport from the public waters of this state ~~to any place beyond the borders of the state,~~ any duck potato, wild celery, or any other plant or plant product except wild rice native in said waters and commonly known to furnish food for game birds.

History: 1989 a. 359; 1997 a. 248 s. 593; Stats. 1997 s. 29.741.

→ ⁴ 5. A person who uses ~~3~~ chemicals on plants to prevent the plants from interfering with the use of water for drinking purposes.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0313/2dn

RNK.../!:...
WJ

Kirsten Grinde:

1. Please note that because the definition of the term "control" in this version of the draft is significantly different than in previous versions, it was necessary to change the definition of the term "manage" ~~in order~~ to avoid redundancy.
2. The redraft instructions included an exemption from the permitting requirement for persons manually removing plants from privately owned beds of navigable waters. Because lake beds belong to the public under the law, I limited this exemption to stream beds.
3. Please review the definitions of "local governmental unit" and "state agency" as created in proposed ^{5.}23.24 (4) (a),¹ to ensure that they meet the intent of the instructions for this draft.
4. I did not draft that part of the request dealing with "sensitive areas" for several reasons. First, there is no indication from the instructions what the designation of an area as a sensitive area means. For example, does it allow DNR to regulate that area in a different manner than it regulates other land under its jurisdiction? Secondly, I believe that DNR likely has the authority to designate certain areas as sensitive areas depending on what that designation is intended to accomplish. I would be happy to discuss this issue further with you or with the appropriate person at DNR.
5. I have not provided a copy of this redraft to DNR. If you wish me to do so, please let me know.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0313/2dn
RNK:wlj:pg

January 14, 2001

Kirsten Grinde:

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Phone: (608) 266-7291
E-mail: robin.kite@legis.state.wi.us



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1 AN. ACT ...; relating to: the budget.

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NATURAL RESOURCES

OTHER NATURAL RESOURCES

Aquatic plant management

The bill authorizes DNR to establish a program that protects aquatic plants that are native to this state and that regulates the introduction, cultivation, and control (management) of aquatic plants. The bill defines controlling aquatic plants to mean cutting, removing, destroying, or suppressing aquatic plants.

Under current law, the only specific authority DNR has regarding aquatic plant management is the authority to develop a statewide program to control purple loosestrife. Under the new program, the types of aquatic plants that will be regulated include Eurasian water milfoil, curly leaf pondweed, and purple loosestrife. Under this program, DNR is required to issue aquatic plant management permits and to promulgate rules to regulate the conditions under which aquatic plants may be managed. These conditions include restrictions on the quantity and species of aquatic plants that are subject to the permit and the areas in which the aquatic plants may be managed. The bill prohibits any person from cultivating or introducing aquatic plants that are not native to this state, from manually removing any type of aquatic plant from navigable waters, and from controlling any type of aquatic plants by the use of chemicals, without such a permit. DNR may establish

a fee for this permit. The bill exempts from the permitting requirements any person who manually removes aquatic plants from privately owned stream beds with the permission of the landowner and any person harvesting wild rice or operating a fish farm, as authorized by law. The bill repeals the current law that makes the cutting of weeds in navigable water a nuisance if such weeds are not removed. District attorneys, DNR, and private individuals may file suit to have a nuisance removed from navigable bodies of water.

Placement of boats and boating equipment in navigable waters

Under current law, a person may not have a boat, a boat trailer, or boating equipment in the lower St. Croix River if the person has reason to believe that the boat, equipment, or trailer has zebra mussels attached. This bill creates a similar law under which a person may not place these items in any navigable water if the person has reason to believe that there is any type of aquatic plant other than wild rice attached to the boat, trailer, or equipment. The bill also authorizes a law enforcement officer, including a conservation warden, to require a person to remove aquatic plants from a boat, a boat trailer, or boating equipment before placing the boat, trailer, or equipment in the water or to require a person to remove a boat, a trailer, or equipment from the water if the law enforcement officer has reason to believe that there are aquatic plants attached.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 23.235 (2) of the statutes is amended to read:

2 23.235 (2) Except as provided in sub. (3), no person may sell, offer for sale,
3 distribute, plant, or cultivate any nuisance-weed multiflora rose or seeds thereof.

4 **SECTION 2.** 23.235 (4) of the statutes is repealed.

5 **SECTION 3.** 23.24 of the statutes is created to read:

6 **23.24 Aquatic plants. (1) DEFINITIONS.** In this section:

7 (a) "Aquaculture" has the meaning given in s. 93.01 (1d).

8 (b) "Aquatic plant" means a planktonic, submergent, emergent, or floating-leaf
9 plant or any part thereof.

10 (c) "Control" means to cut, remove, destroy, or suppress.

1 (d) “Cultivate” means to intentionally maintain the growth or existence of.

2 (e) “Distribute” means to sell, offer to sell, distribute for no consideration, or
3 offer to distribute for no consideration.

4 (f) “Introduce” means to plant, cultivate, stock, or release.

5 (g) “Invasive aquatic plant” means an aquatic plant that is designated under
6 sub. (2) (b) 1.

7 (h) “Manage” means to introduce or control.

8 (i) “Native” means indigenous to the waters of this state.

9 (j) “Nonnative” means not indigenous to the waters of this state.

10 (k) “Waters of this state” means any surface waters within the territorial limits
11 of this state.

12 (2) PROGRAM ESTABLISHED. (a) The department shall establish a program for
13 the waters of this state to do all of the following:

14 1. Protect and develop diverse and stable communities of native aquatic plants.

15 2. Regulate how aquatic plants are managed.

16 3. Provide education and conduct research concerning invasive aquatic plants.

17 (b) Under the program implemented under par. (a), the department shall do all
18 of the following:

19 1. Designate by rule which aquatic plants are invasive aquatic plants for
20 purposes of this section. The department shall designate Eurasian water milfoil,
21 curly leaf pondweed, and purple loosestrife as invasive aquatic plants and may
22 designate any other aquatic plant as an invasive aquatic plant if it has the ability to
23 cause significant adverse change to desirable aquatic habitat, to significantly
24 displace desirable aquatic vegetation, or to reduce the yield of products produced by
25 aquaculture.

1 2. Administer and establish by rule procedures and requirements for the
2 issuing of aquatic plants management permits required under sub. (3).

3 (c) The requirements promulgated under par. (b) 2. may specify any of the
4 following:

5 1. The quantity of aquatic plants that may be managed under an aquatic plant
6 management permit.

7 2. The species of aquatic plants that may be managed under an aquatic plant
8 management permit.

9 3. The areas in which aquatic plants may be managed under an aquatic plant
10 management permit.

11 4. The methods that may be used to manage aquatic plants under an aquatic
12 plant management permit.

13 5. The times during which aquatic plants may be managed under an aquatic
14 plant management permit.

15 6. The allowable methods for disposing or using aquatic plants that are
16 removed or controlled under an aquatic plant management permit.

17 7. The requirements for plans that the department may require under sub. (3)
18 (b).

19 **(3) PERMITS.** (a) Unless a person has a valid aquatic plant management permit
20 issued under the program established under sub. (2), no person may do any of the
21 following:

22 1. Introduce nonnative aquatic plants into waters of this state.

23 2. Manually remove aquatic plants from navigable waters.

24 3. Control aquatic plants in waters of this state by the use of chemicals.

1 4. Control aquatic plants in navigable waters by introducing biological agents,
2 by using a process that involves dewatering, desiccation, burning, or freezing, or by
3 using mechanical means.

4 (b) The department may require that an application for an aquatic plant
5 management permit contain a plan for the department's approval as to how the
6 aquatic plants will be introduced, removed, or controlled.

7 (c) The department may establish fees for aquatic plant management permits.
8 The department may establish a different fee for an aquatic plant management
9 permit to manage aquatic plants that are located in a body of water that is entirely
10 confined on the property of one property owner.

11 (4) EXEMPTIONS FROM PERMITS. (a) In this subsection:

12 1. "Local governmental unit" means a political subdivision of this state, a
13 special purpose district in this state, an instrumentality or corporation of the
14 political subdivision or special purpose district, or a combination or subunit of any
15 of the foregoing.

16 2. "State agency" means any office, department, independent agency, or
17 attached board or commission within the executive branch of state government, or
18 any special purpose authority created by statute.

19 (b) The permit requirement under sub. (3) does not apply to any of the following:

20 1. A person who manually removes aquatic plants from privately owned stream
21 beds with the permission of the landowner.

22 2. A person who engages in an activity listed under sub. (3) (a) in the course of
23 harvesting wild rice as authorized under s. 29.607.

24 3. A person who engages in an activity listed under sub. (3) (a) in the course of
25 operating a fish farm as authorized under s. 95.60.

1 (c) The department may promulgate a rule to waive the permit requirement
2 under sub. (3) (a) 2. for any of the following:

3 1. A person who owns property on which there is a body of water that is entirely
4 confined on the property of that person.

5 2. A riparian owner who manually removes aquatic plants from a body of water
6 that abuts the owner's property provided that the removal does not interfere with the
7 rights of other riparian owners.

8 3. A person who is controlling purple loosestrife.

9 4. A person who uses chemicals in a body of water for the purpose of controlling
10 bacteria on bathing beaches.

11 5. A person who uses chemicals on plants to prevent the plants from interfering
12 with the use of water for drinking purposes.

13 6. A state agency or a local governmental unit that uses a chemical treatment
14 in a body of water for the purpose of protecting the public health.

15 (5) DISTRIBUTION PROHIBITED. No person may distribute an invasive aquatic
16 plant.

17 (6) PENALTIES. (a) Except as provided in par. (b), any person who violates sub.
18 (3) shall forfeit not more than \$200.

19 (b) A person who violates sub. (3) and who, within 5 years before the arrest of
20 the current conviction, was previously convicted of a violation of sub. (3) shall forfeit
21 not less than \$700 nor more than \$2,000 or shall be imprisoned for not less than 6
22 months nor more than 9 months or both.

23 (c) The court may order a person who is convicted under par. (b) to abate any
24 nuisance caused by the violation, restore any natural resource damaged by the

1 violation, or take other appropriate action to eliminate or minimize any
2 environmental damage caused by the violation.

3 (d) A person who violates sub. (5) shall forfeit not more than \$100.

4 **SECTION 4.** 29.741 (2) of the statutes is amended to read:

5 29.741 (2) No person shall take, remove, sell, or transport from the public
6 waters of this state to ~~any place beyond the borders of the state~~, any duck potato, wild
7 celery, or any other plant or plant product except wild rice native in said waters and
8 commonly known to furnish food for game birds.

9 **SECTION 5.** 30.124 (1) (intro.) of the statutes is amended to read:

10 30.124 (1) (intro.) Notwithstanding ss. 30.12, ~~30.125~~, 30.20, 30.44, and 30.45,
11 and if the department finds that the activity will not adversely affect public or private
12 rights or interests in fish and wildlife populations, navigation, or waterway flood
13 flow capacity and will not result in environmental pollution, as defined in s. 299.01
14 (4), the department may do all of the following on public lands or waters:

15 **SECTION 6.** 30.124 (1) (a) of the statutes is amended to read:

16 30.124 (1) (a) Cut aquatic ~~vegetation~~ plants, as defined in s. 30.715 (1) (a),
17 without removing ~~the vegetation~~ them from the water, for the purpose of improving
18 waterfowl nesting, brood, and migration habitat.

19 **SECTION 7.** 30.125 of the statutes is repealed.

20 **SECTION 8.** 30.715 (1) of the statutes is created to read:

21 30.715 (1) In this section:

22 (a) "Aquatic plant" means a submergent, emergent, or floating-leaf plant or
23 any part thereof. "Aquatic plant" does not mean wild rice.

1 (b) "Public boat access site" means a site that provides access to a navigable
2 water for boats and that is open to the general public for free or for a charge or that
3 is open only to certain groups of persons for a charge.

4 **SECTION 9.** 30.715 (2) of the statutes is created to read:

5 30.715 (2) No person may place or use a boat or boating equipment or place a
6 boat trailer in a navigable water if the person has reason to believe that the boat, boat
7 trailer, or boating equipment has any aquatic plants attached.

8 **SECTION 10.** 30.715 (4) (a) of the statutes is created to read:

9 30.715 (4) (a) Remove aquatic plants from a boat, boat trailer, or boating
10 equipment before placing it in a navigable water

11 **SECTION 11.** 30.715 (4) (b) of the statutes is created to read:

12 30.715 (4) (b) Remove or not place a boat, boat trailer, or boating equipment
13 in a navigable water if the law enforcement officer has reason to believe that the boat,
14 boat trailer, or boating equipment has aquatic plants attached.

15 **SECTION 12.** 30.715 (5) of the statutes is created to read:

16 30.715 (5) (a) The department shall prepare a notice that contains a summary
17 of the provisions under this section and shall make copies of the notice available to
18 owners required to post the notice under par. (b).

19 (b) Each owner of a public boat access site shall post and maintain the notice
20 described in par. (a).

21 **SECTION 13.** 30.725 (title) of the statutes is renumbered 30.715 (title) and
22 amended to read:

23 **30.715 (title) Placement of boats, trailers, and equipment; Lower St.**
24 **Croix River in navigable waters.**

25 **SECTION 14.** 30.725 (1) of the statutes is renumbered 30.715 (3).

1 **SECTION 15.** 30.725 (2) (intro.) of the statutes is renumbered 30.715 (4) (intro.).

2 **SECTION 16.** 30.725 (2) (a) of the statutes is renumbered 30.715 (4) (c).

3 **SECTION 17.** 30.725 (2) (b) of the statutes is renumbered 30.715 (4) (d).

4 **SECTION 18.** 30.725 (3) of the statutes is renumbered 30.715 (6) and amended
5 to read:

6 30.715 (6) No person may refuse to obey the order of a law enforcement officer
7 who is acting under sub. ~~(2)~~ (4).

8 **SECTION 19.** 30.92 (4) (b) 8. b. of the statutes is amended to read:

9 30.92 (4) (b) 8. b. Acquisition of capital equipment that is necessary to cut and
10 remove aquatic plants ~~that are aquatic nuisances or~~ that are detrimental to fish
11 habitat if the acquisition is pursuant to a plan to cut and remove aquatic plants that
12 is approved by the department.

13 **SECTION 20.** 30.92 (4) (b) 8. bp. of the statutes is created to read:

14 30.92 (4) (b) 8. bp. Acquisition of capital equipment that is necessary to control
15 and remove invasive aquatic plants, as defined in s. 23.24 (1) (g), if the equipment
16 will be used to control and remove them as authorized by an aquatic plant
17 management permit issued under s. 23.24 (3).

18 **SECTION 21.** 281.17 (2) of the statutes is amended to read:

19 281.17 (2) The department shall supervise chemical treatment of waters for the
20 suppression of algae, ~~aquatic weeds, swimmers' itch and other nuisance-producing~~
21 ~~plants and organisms that are not regulated by the program established under s.~~
22 23.24 (2). It may purchase equipment and may make a charge for the use of the same
23 and for materials furnished, together with a per diem charge for any services
24 performed in such work. The charge shall be sufficient to reimburse the department

1 for the use of the equipment, the actual cost of materials furnished, and the actual
2 cost of the services rendered.

3 **SECTION 9337. Initial applicability; natural resources.**

4 (1) AQUATIC PLANT REMOVAL EQUIPMENT. The treatment of section 30.92 (4) (b)
5 8. b. and bp. of the statutes first applies to the acquisition of capital equipment for
6 which an application for financial assistance for the acquisition is submitted to the
7 department of natural resources. *on the effective date of this subsection* ✓

8 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0313/3dn

RNK.../.....

Wij

Kirsten Grinde:

This redraft adds language to the effective date provision that was inadvertently omitted in previous versions of this draft.

Robin N. Kite
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Phone: (608) 266-7291
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LRB-0313/3dn
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February 13, 2001

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0313/3
MGG&RNK:wlj:rs

DOA:.....Grinde – Aquatic plants

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES

OTHER NATURAL RESOURCES

Aquatic plant management

The bill authorizes DNR to establish a program that protects aquatic plants that are native to this state and that regulates the introduction, cultivation, and control (management) of aquatic plants. The bill defines controlling aquatic plants to mean cutting, removing, destroying, or suppressing aquatic plants.

Under current law, the only specific authority DNR has regarding aquatic plant management is the authority to develop a statewide program to control purple loosestrife. Under the new program, the types of aquatic plants that will be regulated include Eurasian water milfoil, curly leaf pondweed, and purple loosestrife. Under this program, DNR is required to issue aquatic plant management permits and to promulgate rules to regulate the conditions under which aquatic plants may be managed. These conditions include restrictions on the quantity and species of aquatic plants that are subject to the permit and the areas in which the aquatic plants may be managed. The bill prohibits any person from cultivating or introducing aquatic plants that are not native to this state, from manually removing any type of aquatic plant from navigable waters, and from controlling any type of aquatic plants by the use of chemicals, without such a permit. DNR may establish

a fee for this permit. The bill exempts from the permitting requirements any person who manually removes aquatic plants from privately owned stream beds with the permission of the landowner and any person harvesting wild rice or operating a fish farm, as authorized by law. The bill repeals the current law that makes the cutting of weeds in navigable water a nuisance if such weeds are not removed. District attorneys, DNR, and private individuals may file suit to have a nuisance removed from navigable bodies of water.

Placement of boats and boating equipment in navigable waters

Under current law, a person may not have a boat, a boat trailer, or boating equipment in the lower St. Croix River if the person has reason to believe that the boat, equipment, or trailer has zebra mussels attached. This bill creates a similar law under which a person may not place these items in any navigable water if the person has reason to believe that there is any type of aquatic plant other than wild rice attached to the boat, trailer, or equipment. The bill also authorizes a law enforcement officer, including a conservation warden, to require a person to remove aquatic plants from a boat, a boat trailer, or boating equipment before placing the boat, trailer, or equipment in the water or to require a person to remove a boat, a trailer, or equipment from the water if the law enforcement officer has reason to believe that there are aquatic plants attached.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 23.235 (2) of the statutes is amended to read:

2 23.235 (2) Except as provided in sub. (3), no person may sell, offer for sale,
3 distribute, plant, or cultivate any nuisance weed multiflora rose or seeds thereof.

4 **SECTION 2.** 23.235 (4) of the statutes is repealed.

5 **SECTION 3.** 23.24 of the statutes is created to read:

6 **23.24 Aquatic plants. (1) DEFINITIONS.** In this section:

7 (a) “Aquaculture” has the meaning given in s. 93.01 (1d).

8 (b) “Aquatic plant” means a planktonic, submergent, emergent, or floating-leaf
9 plant or any part thereof.

10 (c) “Control” means to cut, remove, destroy, or suppress.

1 (d) "Cultivate" means to intentionally maintain the growth or existence of.

2 (e) "Distribute" means to sell, offer to sell, distribute for no consideration, or
3 offer to distribute for no consideration.

4 (f) "Introduce" means to plant, cultivate, stock, or release.

5 (g) "Invasive aquatic plant" means an aquatic plant that is designated under
6 sub. (2) (b) 1.

7 (h) "Manage" means to introduce or control.

8 (i) "Native" means indigenous to the waters of this state.

9 (j) "Nonnative" means not indigenous to the waters of this state.

10 (k) "Waters of this state" means any surface waters within the territorial limits
11 of this state.

12 (2) PROGRAM ESTABLISHED. (a) The department shall establish a program for
13 the waters of this state to do all of the following:

- 14 1. Protect and develop diverse and stable communities of native aquatic plants.
- 15 2. Regulate how aquatic plants are managed.
- 16 3. Provide education and conduct research concerning invasive aquatic plants.

17 (b) Under the program implemented under par. (a), the department shall do all
18 of the following:

- 19 1. Designate by rule which aquatic plants are invasive aquatic plants for
20 purposes of this section. The department shall designate Eurasian water milfoil,
21 curly leaf pondweed, and purple loosestrife as invasive aquatic plants and may
22 designate any other aquatic plant as an invasive aquatic plant if it has the ability to
23 cause significant adverse change to desirable aquatic habitat, to significantly
24 displace desirable aquatic vegetation, or to reduce the yield of products produced by
25 aquaculture.

1 2. Administer and establish by rule procedures and requirements for the
2 issuing of aquatic plants management permits required under sub. (3).

3 (c) The requirements promulgated under par. (b) 2. may specify any of the
4 following:

5 1. The quantity of aquatic plants that may be managed under an aquatic plant
6 management permit.

7 2. The species of aquatic plants that may be managed under an aquatic plant
8 management permit.

9 3. The areas in which aquatic plants may be managed under an aquatic plant
10 management permit.

11 4. The methods that may be used to manage aquatic plants under an aquatic
12 plant management permit.

13 5. The times during which aquatic plants may be managed under an aquatic
14 plant management permit.

15 6. The allowable methods for disposing or using aquatic plants that are
16 removed or controlled under an aquatic plant management permit.

17 7. The requirements for plans that the department may require under sub. (3)
18 (b).

19 **(3) PERMITS.** (a) Unless a person has a valid aquatic plant management permit
20 issued under the program established under sub. (2), no person may do any of the
21 following:

22 1. Introduce nonnative aquatic plants into waters of this state.

23 2. Manually remove aquatic plants from navigable waters.

24 3. Control aquatic plants in waters of this state by the use of chemicals.

1 4. Control aquatic plants in navigable waters by introducing biological agents,
2 by using a process that involves dewatering, desiccation, burning, or freezing, or by
3 using mechanical means.

4 (b) The department may require that an application for an aquatic plant
5 management permit contain a plan for the department's approval as to how the
6 aquatic plants will be introduced, removed, or controlled.

7 (c) The department may establish fees for aquatic plant management permits.
8 The department may establish a different fee for an aquatic plant management
9 permit to manage aquatic plants that are located in a body of water that is entirely
10 confined on the property of one property owner.

11 (4) EXEMPTIONS FROM PERMITS. (a) In this subsection:

12 1. "Local governmental unit" means a political subdivision of this state, a
13 special purpose district in this state, an instrumentality or corporation of the
14 political subdivision or special purpose district, or a combination or subunit of any
15 of the foregoing.

16 2. "State agency" means any office, department, independent agency, or
17 attached board or commission within the executive branch of state government, or
18 any special purpose authority created by statute.

19 (b) The permit requirement under sub. (3) does not apply to any of the following:

20 1. A person who manually removes aquatic plants from privately owned stream
21 beds with the permission of the landowner.

22 2. A person who engages in an activity listed under sub. (3) (a) in the course of
23 harvesting wild rice as authorized under s. 29.607.

24 3. A person who engages in an activity listed under sub. (3) (a) in the course of
25 operating a fish farm as authorized under s. 95.60.

1 (c) The department may promulgate a rule to waive the permit requirement
2 under sub. (3) (a) 2. for any of the following:

3 1. A person who owns property on which there is a body of water that is entirely
4 confined on the property of that person.

5 2. A riparian owner who manually removes aquatic plants from a body of water
6 that abuts the owner's property provided that the removal does not interfere with the
7 rights of other riparian owners.

8 3. A person who is controlling purple loosestrife.

9 4. A person who uses chemicals in a body of water for the purpose of controlling
10 bacteria on bathing beaches.

11 5. A person who uses chemicals on plants to prevent the plants from interfering
12 with the use of water for drinking purposes.

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23 (c) The court may order a person who is convicted under par. (b) to abate any
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2 cost of the services rendered.

3 **SECTION 9337. Initial applicability; natural resources.**

4 (1) AQUATIC PLANT REMOVAL EQUIPMENT. The treatment of section 30.92 (4) (b)
5 8. b. and bp. of the statutes first applies to the acquisition of capital equipment for
6 which an application for financial assistance for the acquisition is submitted to the
7 department of natural resources on the effective date of this subsection.

8 (END)