

## 2005 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB337)

Received: **07/27/2005**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **J.A. Hines (608) 266-7746**

By/Representing: **Doug**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - fish and game**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hines@legis.state.wi.us**

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Fishing with a bow and arrow at night

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#### Instructions:

See Attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 09/07/2005			_____			
/1	rkite 10/12/2005	lkunkel 10/24/2005	rschluet 10/24/2005	_____	lnorthro 10/24/2005	lnorthro 10/24/2005	
				_____	mbarman 10/27/2005		
				_____			

FE Sent For:

e-mail only  
- requested by Doug

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**Topic:**

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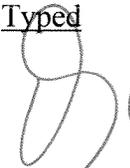
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1/?	rkite	1/mk10/24					

FE Sent For:

<END>

9-7-05  
Hold RJK  
request reviewed  
& retrieved from  
hold - 10-11-05  

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Xed  
09-08-05

7-27-05

Per Doug in Rep. Hines office 6-7746

prepare a sub incorporating a0506 into  
AB 337

also, incorporate a definition of bow  
fishing to make clear that bow fishing  
does not include spearing

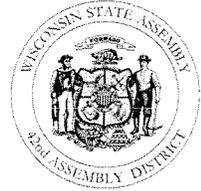
Doug is going to talk to DNR about  
the definition of bow fishing -  
wait to hear from Doug or DNR on  
the definition to use

8-30-05

called Doug -  
he still does not have an answer re:  
definition of bow hunting  
he will be having some meetings in the  
next few weeks & will call me then  
hold off -

10-11-05

Doug is sending over some language from DNR



**J.A. HINES**

STATE REPRESENTATIVE • 42ND ASSEMBLY DISTRICT

PER YOUR REQUEST

FOR YOUR INFORMATION AB 337

Robin,

We want to amend the statute regarding appearing to include the two additional proposals by the DNR. They initially wanted to do this through the rules process, but Rep. Hines wants to do it through the statutes.

Let me know if you have any questions.

Thanks,

*[Signature]*

P.O. Box 8952 • MADISON, WI 53708 • STATE CAPITOL  
(608) 266-7746 • TOLL-FREE: (888) 534-0042

**Timeline for submitting proposals:**

- Initiators should forward completed Form 1000-3-04, Law/Regulation Change Recommendation, to your supervisor no later than **July 1**.
- Supervisor forwards approved proposals to the Regional Director or the Bureau Director by **July 20**.
- Regional and Bureau Director forwards recommendations to the Bureau of Law Enforcement, Fisheries or Wildlife no later than **August 1**.

<b>Recommendation to:</b>  <input type="checkbox"/> Repeal <input type="checkbox"/> Amend <input checked="" type="checkbox"/> Create <input type="checkbox"/> Repeal and recreate	<b>Section Number(s):</b>  <input checked="" type="checkbox"/> Adm. Code s. <u>NR 20.09(4)</u> <input type="checkbox"/> Statutes s. _____	<input type="checkbox"/> Change Pamphlet  For Regulation pamphlet SUGGESTION: (The submitter must complete the current wording section, proposed wording section, sections 9 and 10 and acquire the recommending signatures.)
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**Current Wording:**

None

**Proposed Wording** (Use ~~strikeouts~~ for deletions and underlines for additions):

**NR 20.09 Spearing restrictions.** No person may do any of the following:

s. 20.09(4) and (5) are created to read:

- (4) Release or return any speared or dead rough fish to the waters of the state or leave any speared or dead rough fish on the ice or banks of any waters of the state. All speared or dead rough fish shall be removed from the water and used or disposed of in an appropriate manner.
- (5) Spear fish with a bow and arrow unless the arrow is equipped with a metal barbed tip and is attached to the bow with a tethered line which allow for the retrieval of the arrow and any speared fish.

1. **DESCRIPTION OF REGULATION:** Make the description complete and understandable to the uninitiated.

Currently wardens do not have a good tool to use to prevent or prohibit a person from releasing rough fish that they have speared. Complaints are received about rough fish spearkers and tournaments not removing the fish they spear from the water. This is typically done do to the large volume of fish that are sometimes speared for sport and not food and disposal can be difficult. Such practices result in the injured fish later dieing at a later time (if not already dead) and floating up along shorelines creating a smelly mess.

This proposal is to simply make it clear that all speared fish must be removed, even if still alive. Without such a clear rule, wardens can only try to apply the litter laws under s. 287.81, Wis. Stats., which means they must prove that the fish were a solid waste, or by the use of s. 23.095(1g). It can be difficult to convince a court or the public that killing carp is an unreasonable waste of a resource.

**287.81 Littering.**

(2) Except as provided in sub. (3), a person who does any of the following may be required to forfeit not more than \$500:

- (a) Deposits or discharges any solid waste on or along any highway, in any waters of the state, on the ice of any waters of the state or on any other public or private property.

**23.095 Protection of natural resources.**

(1) Definitions. In this section:

- (a) "Damage" means to commit a physical act that unreasonably destroys, molests, defaces, removes or wastes.

(1g) **General prohibition.** No person may damage or attempt to damage any natural resource within the state.

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2. **PREVIOUS ACTION:** Was the change introduced in previous year/sessions? For legislative changes, what was the status at the end of the session? Department position? What interest groups were involved in the bill? What was their position?

None

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3. **POLICY/ADMINISTRATIVE EFFECT:** What is the effect on current DNR programs, changes in state policies, changes in administrative procedures (manual codes, handbooks), changes in organization or changes in management practices? How does this proposal relate to federal laws or rules?

None

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4a. **DEPARTMENT FISCAL EFFECT:** Summarize in terms of supplies and services costs, new capital equipment costs and/or hours to do the job (and by whom), will it take to carry out the mandates of this proposal. Distinguish between state and local expenditures. Summarize any revenue the proposal creates.

None

4b. **SMALL BUSINESS ANALYSIS:** Does this change have a significant economic impact on small businesses? Does the proposed change create any compliance and/or reporting requirements for small businesses? If yes, please explain and provide estimates.

No

4c. **FISCAL EFFECT ON PRIVATE PARTIES:** Does the proposed change have a significant fiscal effect on the private sector? If yes, what is the anticipated costs that will be incurred by the private sector in complying with the proposed change?

No

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5. **IMPACT ON OTHER PROGRAMS:** What programs did you consult in preparing this analysis? Do they concur in your analysis?

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6. **INFORMATION IMPACT:** Does this proposal create new record keeping requirements, require new automation, modify existing data systems?

No

---

7. **STATE REGULATORY ANALYSIS:** Provide a comparison with similar rules in adjacent states (Illinois, Iowa, Michigan and Minnesota).

This proposed rule language is consistent with the rules on spearing rough fish in Minnesota. Like Wisconsin, Iowa, Illinois and Michigan rules simply do not address these issues.

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8. **ADMINISTRATIVE RULES:** (Complete this section only if proposing a **legislative** change.) Will administrative rules be necessary to implement this policy? Will there be a new set of rules or just changes to existing rules? When must the rules be implemented by?

N/A

9. **EFFECTIVE DATE:** When do you believe the change should start? If administrative rules are necessary, should the administrative rule date be the same?

April 1, 2007

10. **BACKGROUND:** Pamphlet modification background.

11. **Is the recommendation enforceable?**  Yes  No Analysis by : TVH

SUBMITTED BY		RECOMMENDED BY	
Initiator's Name Thomas Van Haren		Supervisor	Date
Title Cons. Warden / LE NR Policy Effort		Region Program Supervisor or Section Chief	Date
Date 7/1/05	Region/Bureau Central Office / Bureau of LE	Regional Director or Bureau Director	Date

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Comments (Attach additional sheets if necessary):

### **Minnesota Fishing Rules:**

- Using an artificial light to lure or attract fish, or to see fish when spearing, is unlawful.
- Rough fish may not be taken by spear, harpoon, archery, or dip net in designated trout lakes or streams.

**IOWA–MINNESOTA Regulations**• Anglers may use up to two lines with two hooks per line. • Setlines, trotlines, or unattended lines are unlawful. • Spearing or archery may be used to take carp, buffalo, sheepshead, dogfish, gar, or quillback from sunrise to sunset May 1, 2005 through February 15, 2006.

**NORTH DAKOTA–MINNESOTA Regulations**• Two lines are permitted, and two hooks are permitted on each line. • Spearing from a fish house or a dark house is unlawful. • It is unlawful to possess a spear or bow and arrow on or adjacent to any water body where the spearing and archery season is closed. • Rough fish, except burbot (eelpout), may be taken by spearing or archery May 1 through December 31.

### **SOUTH DAKOTA–MINNESOTA Regulations**

- Unprotected fish, except white bass, may be taken by spearing or archery from sunrise to sunset from April 30 through November 30.

**WISCONSIN–MINNESOTA Regulations**• Two lines with a single lure or bait on each are permitted. If fishing with one line you may use two baits. • Fish hooked in any part of the body except the mouth must be returned to the water immediately. • Tip-ups must be within 400 feet of the angler. • Rough fish may be taken by spearing, archery, and dip-netting during daylight hours from April 30, 2005 through March 1, 2006.

### **Rough Fish Spearing & Archery:**

- Arrows must be attached to the bow with a tethered line.
- Speared or dead rough fish may not be returned to the water or left on the ice or banks of any lake or stream.

2005

Date (time) needed

10/25  
soon

LRBs 0170 / 1

RNK: lmk: \_\_\_\_\_

# SUBSTITUTE AMENDMENT [TO A BILL]

Use the appropriate components and routines developed for substitute amendments.

D-Note

S (A) SUBSTITUTE AMENDMENT

TO 2005 SB (AB) 337 (LRB- / )

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:** .....

.....  
.....  
.....  
.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

SECTION #.

next page

# 2005 ASSEMBLY BILL 337

April 15, 2005 - Introduced by Representatives HINES, MOULTON, SUDER, GUNDRUM, TOWNSEND, GRONEMUS, ALBERS, SHERIDAN, MUSSER, MOLEPSKE, HAHN, PETTIS, KREIBICH, F. LASEE, WIECKERT and PETROWSKI, cosponsored by Senators ZIEN, BROWN, REYNOLDS and GROTHMAN. Referred to Committee on Natural Resources.

✓ regulating

1 AN ACT *to create* 29.405 of the statutes; relating to: fishing with a bow and  
2 arrow at night. ~~at night~~ keep

### *Analysis by the Legislative Reference Bureau*

Under current law, the Department of Natural Resources (DNR) is required to establish open and closed seasons for fish and game and to establish conditions that conserve the fish and game supply and that ensure opportunities for good fishing, hunting, and trapping. Current law authorizes DNR to exercise this authority for the entire state, for any specified county, or for any lake or stream.

This bill provides that if DNR establishes an open season for fishing with a bow and arrow on a particular body of water, DNR must allow fishing with a bow and arrow on that body of water from sunset to sunrise during that open season.

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:*

insert 1-3 →

3 SECTION 1. 29.405 of the statutes is created to read:  
4 **29.405 Fishing with bow and arrow.** If the department establishes an open  
5 season for fishing with a bow and arrow on a particular body of water, the department

Insert 1-4

4(c)

taking rough fish

**ASSEMBLY BILL 337**

**SECTION 1**

1 shall allow ~~fishing~~ <sup>rough</sup> the taking of fish with a bow and arrow on that body of water from sunset to sunrise  
2 during that open season. ✓

3 (END)

dn

**ASSEMBLY AMENDMENT ,  
TO 2005 ASSEMBLY BILL 337**

Insert 1-3

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: before that line insert:

3 ~~SECTION 1g.~~ <sup>#</sup> 29.314 (4) (b) 3. of the statutes is amended to read:

4 29.314 (4) (b) 3. To a person who possesses or uses a light while using a bow  
5 and arrow for taking rough fish on lakes that are not outlying waters. ✓

6 ~~SECTION 1m.~~ <sup>#</sup> 29.314 (5) (b) 2m. of the statutes is created to read:

7 29.314 (5) (b) 2m. To a person who possesses or uses a light while using a bow  
8 and arrow for taking rough fish."

9 **2.** Page 1, line 3: substitute "SECTION 1r" for "SECTION 1"

10

(END)

of  
insert

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0170/1ins.  
RNK:.....

INSERT 1-4

(a) No person may do any of the following:

1. ~~Spears~~ <sup>Take</sup> rough fish with a bow and arrow unless the arrow is equipped with a metal barbed tip that is attached to the bow with a tethered line that allows for the retrieval of the arrow and the fish.

2. Release or return any ~~speared~~ <sup>taken with a bow and arrow</sup> rough fish, whether dead or alive, to the waters of this state.

3. Leave any ~~speared~~ <sup>taken with a bow and arrow</sup> rough fish, whether dead or alive, on the ice or banks of any waters of this state.

(b) Any person who ~~spears~~ <sup>takes</sup> rough fish <sup>with a bow and arrow</sup> in any waters of this state shall remove the fish from those waters and use or dispose of the fish in an appropriate manner as determined by the department.

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

LRBs0170/1dn  
RNK:.....

(date)

Assembly Bill 337 generally requires that DNR allow nighttime bow fishing under certain circumstances. In your instructions for this substitute amendment, you asked me to draft certain fishing prohibitions that apply only "rough fish". I have assumed, therefore, that your intent for this substitute amendment is to have all of the provisions in the draft, even those that relate to nighttime fishing, apply only to fishing for "rough fish". If my assumption is incorrect, please let me know and I will redraft accordingly.

LPS  
Please  
change

Robin ~~Ryan~~ KITE  
Legislative Attorney  
Phone: (608) 261-~~6927~~ 7291  
E-mail: robin.~~ryan~~@legis.state.wi.us  
kite

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

LRBs0170/1dn  
RNK:lmk:rs

October 24, 2005

Assembly Bill 337 generally requires that DNR allow nighttime bow fishing under certain circumstances. In your instructions for this substitute amendment, you asked me to draft certain fishing prohibitions that apply only to "rough fish." I have assumed, therefore, that your intent for this substitute amendment is to have all of the provisions in the draft, even those that relate to nighttime fishing, apply only to fishing for "rough fish." If my assumption is incorrect, please let me know and I will redraft accordingly.

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