

👉 **05hr_AC-Fo_ab0059_pt01**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Forestry...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (July 2013)

Assembly

Record of Committee Proceedings

Committee on Forestry

Assembly Bill 59

Relating to: actions against forestry operations and granting rule-making authority.

By Representatives Mursau, Friske, Ainsworth, Albers, Gard, Gronemus, Gunderson, Hahn, McCormick, Montgomery, Musser, Ott, Owens and Vos; cosponsored by Senator Zien.

January 27, 2005 Referred to Committee on Forestry.

March 1, 2005 **PUBLIC HEARING HELD**

Present: (5) Representatives Friske, Mursau, Ainsworth, M. Williams and Boyle.
Absent: (1) Representative Hubler.

Appearances For

- Jeff Mursau, Madison — Representative, Wisconsin 36th Assembly District
- Allison Wellman, Madison — Department of Natural Resources
- Gene Francisco, Sun Prairie — Executive Director, Wisconsin Professional Loggers Association
- Colette Matthews, Tomahawk — Executive Director, Wisconsin County Forests Association
- Eugene Roark, Madison — Wisconsin Woodland Owners Association

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- George Meyer, Madison — Wisconsin Wildlife Federation
- Dale Dorrow, Reedsburg — Juneau County Forestry Department
- Pete Bartlet, Phillips — Price County Forestry Department

Registrations Against

- None.

March 29, 2005

EXECUTIVE SESSION HELD

Present: (5) Representatives Friske, Mursau, Ainsworth, M. Williams and Hubler.
Absent: (1) Representative Boyle.

Moved by Representative Friske, seconded by Representative Mursau that **Assembly Amendment 1** be recommended for introduction and adoption.

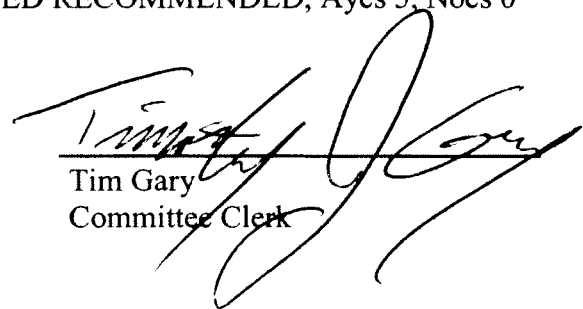
Ayes: (5) Representatives Friske, Mursau, Ainsworth, M. Williams and Hubler.
Noes: (0) None.
Absent: (1) Representative Boyle.

INTRODUCTION AND ADOPTION OF ASSEMBLY AMENDMENT 1 RECOMMENDED, Ayes 5, Noes 0

Moved by Representative Hubler, seconded by Representative Friske that **Assembly Bill 59** be recommended for passage as amended.

Ayes: (5) Representatives Friske, Mursau, Ainsworth, M. Williams and Hubler.
Noes: (0) None.
Absent: (1) Representative Boyle.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 0


Tim Gary
Committee Clerk

Vote Record Committee on Forestry

Date: 3-29-05

Moved by: FRISKE

Seconded by: _____

AB 5^a

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt AA1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Donald Friske, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Hubler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frank Boyle	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	<u>1</u>	<u> </u>

Motion Carried

Motion Failed

Vote Record Committee on Forestry

Date: 3-29-05

Moved by: Friske

Seconded by: Mursau

AB 59

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt AA1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Donald Friske, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Hubler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frank Boyle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	<u>1</u>	<u> </u>

Motion Carried

Motion Failed

Vote Record Committee on Forestry

Date: 3-29-05

Moved by: Hubler

Seconded by: Friske

AB 59

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage
 - Introduction
 - Adoption
 - Rejection
 - Confirmation
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Indefinite Postponement

Committee Member	Aye	No	Absent	Not Voting
Representative Donald Friske, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Hubler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frank Boyle	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	<u>1</u>	<u> </u>

Motion Carried Motion Failed



**Testimony Before the
Assembly Forestry Committee
March 1, 2005**

In Regards to AB59 Actions against Forestry Operations

Good morning Chairman Friske and committee members. My name is Gene Francisco and I am the Executive Director of the Wisconsin Professional Loggers Association. I appear before you today on behalf of WPLA to express our support for the provisions outlined in AB 59.

The WPLA is a non-profit organization established to promote professional conduct among loggers in the state of Wisconsin; to provide a forum for resolution of issues of concern to professional logging contractors through communication, education and legislation; and to practice forestry and harvesting activities which sustain our forests for future generations.

WPLA represents small business logging contractors from throughout the state, some of which are third generation family businesses.

Wisconsin's Forest Industry, our second largest industry, is extremely important to our economy.

- A 28 billion dollar industry and 8% of the states total industrial output.
- A direct employer of 96,000 manufacturing jobs, the largest component of Wisconsin's manufacturing workforce.
- The nation's second largest investor in forest industry capital equipment, \$811 million annually, 20% of all Wisconsin manufacturing.
- An employer of high paying, high skilled jobs, paying an average \$38,000 annual salary, which is \$8,000 more than the state average.
- An industry that has been the backbone of Wisconsin's economy.

Wisconsin's forest industry is in trouble.

- Over 5000 jobs have been lost in the pulp and paper making industries since 2000.
- Between 1997 and 2000 the number of logging contractors has decreased by over 20%.
- 15 medium to large sawmills have closed in the last 5 years.
- Just last month the small community of Tomahawk lost 32 high paying job at its local paper mill because of the lack of availability of raw forest products.

Over 60% of the sawlogs and pulpwood used by our forest industry comes from private individual and family forest lands. The ability of these small private woodland owners to thin their forests, keep them healthy and get a small return on their investment by selling forest products is being threatened by poorly conceived zoning regulations and complaints from new neighbors about the visual effects of tree cutting.

A recent example of this occurred in 2003 in the City of New Berlin which encompasses an entire township including rural farm and forest land as well as urban and suburban residential areas. In this case an elderly farmer contracted with a professional logger to thin his woodlot similar to what his family has done on their farm for the past 150 years. The logger obtained help from a professional forester in preparing a forest management

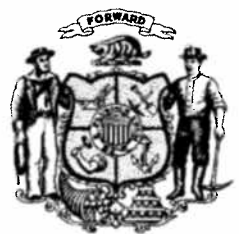
plan and selecting the trees to be thinned. Subsequent complaints from a neighbor during the logging operation led to a restraining order stopping the logging operation and a lawsuit filed by the city against the farmer for violating the zoning ordinance. The case was eventually dismissed and the restraining order lifted primarily because the zoning ordinance was contradictory. The bottom line is that this cost the farmer, the logging contractor and the taxpayers several thousand dollars each in legal fees not to mention the down time for the logger and cost of moving equipment to and from this 5 acre timber sale.

AB 59 if enacted into law will protect landowner's right to practice forestry if they follow generally accepted forest management guidelines. It will insure the ability of private land stewards to protect their forests from damaging insects and disease and it will insure that forest products will be available to sustain our valuable forest industry in perpetuity.

Thank you for the opportunity to present WPLA's position on AB 59. I would be happy to answer questions at this time.



WISCONSIN STATE LEGISLATURE





Wisconsin Wildlife Federation

720 ST. CROIX ST., SUITE 101, PRESCOTT, WI 54021 • (715) 262-9279 • 1-800-897-4161

AFFILIATED WITH NATIONAL WILDLIFE FEDERATION

March 1, 2005

To: Chairman Friske, Vice- Chairman Mursau, Representatives Ainsworth, Williams, Hubler
and Boyle

From: George Meyer, Executive Director, Wisconsin Wildlife Federation

Subject: Managed Forest Law Grant Program and Assembly Bill 59

Thank you for the opportunity to support two proposals that are before the Assembly Forestry Committee today:

1. **Managed Forest Law Grant Program.** The Wisconsin Wildlife Federation would like to commend Chairman Friske for his leadership in the revision of the Managed Forest Law in the last session of the legislature. The WWF supported the bill that was initially drafted with a broad consensus of those involved in forestry and outdoor recreation.

The Managed Forest Law provides major property tax incentives for landowners, large and small, to manage their lands according to sound forestry practices. Historically, the tax breaks furnished to landowners was properly justified by (a) the benefits to the state's economy by the provision of timber resources for the state's industrial base and (b) having the MFL lands open for recreational use including hunting and fishing. It is because of this latter provision that sportsmen and women throughout the state have continued to support the tax benefits afforded by the Managed Forest Law. Later, the legislature allowed portions of MFL lands to be closed as long as the funds from allowing such closure were applied to provide public access for hunting and fishing on other private lands.

Last session's revisions to the MFL law, created a public access grant program using the funds set aside from "closed" MFL lands. However that provision was changed in the Joint Finance Committee to create a no-strings attached funding program to local units of government. The Governor line-item vetoed this provision and has proposed in his 2005-2007 budget to recreate the public access grant program.

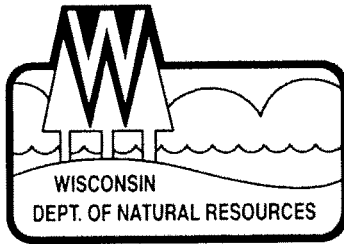
The Wisconsin Wildlife Federation strongly encourages the Committee's support of this proposal. It continues the commitment made when the initial forest tax laws were created and carries out the consensus of all the groups that worked hard

on the MFL revisions in the last session of the legislature. An important piece of information for your review is that last year the great majority of land entered into the Managed Forest Law program was “closed” to public hunting and fishing.

2. **Assembly Bill 59.** The Wisconsin Wildlife Federation supports Assembly Bill 59 which provides that a forestry operation may not be declared a nuisance if the forestry operation conforms to accepted forestry management practices. The Wisconsin Wildlife Federation is the largest conservation group in the state comprised of ninety-seven hunting, fishing and trapping groups. Wisconsin’s public and private forests provide major fish and wildlife habitat for Wisconsin’s hunters, anglers and trappers. Healthy, well-managed forests are critical for the long-term survival of fish and wildlife species. Nuisance lawsuits that would impinge on the sound management of private and public forests in the state will harm fish and wildlife populations and adversely affect hunting, fishing and trapping in the state. The Wisconsin Wildlife Federation has confidence in the Department of Natural Resources’ Division of Forestry to develop by rule a sound set of “generally accepted forestry management practices”.

In conclusion the Wisconsin Wildlife Federation respectfully requests that the Assembly Forestry Committee support the proposed MFL public access grant program and Assembly Bill 59. Thank you for the opportunity to provide this information to you today.





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

Assembly Bill 59

Assembly Committee on Forestry

Department of Natural Resources Testimony
Allison Hellman, Policy Advisor
Division of Forestry
March 1, 2005

Mr. Chairman and Committee Members:

Good morning. I appreciate this opportunity to appear before you to discuss AB 59.

The Department of Natural Resources supports AB 59. This bill provides that a forestry operation may not be declared a nuisance if the forestry operation conforms to generally accepted forestry management practices. Also, under this bill, no political subdivision may enact a zoning ordinance that prohibits forestry operations that are in accordance with generally accepted forestry management practices.

This bill responds to cases in which local ordinances have restricted the ability of landowners to harvest timber on their property as part of practicing sustainable forestry.

AB 59 does not require that the forestry operation must occur first in order to not be considered a nuisance as the Right to Farm does. This appears to provide greater protection since it implies that the forestry operation does not need any history prior to the complaint and in fact could start after the plaintiff began use of the impacted property. This seems to reflect the fact that forestry operations are periodic and do not result in a land use change, unlike the establishment of a farm or non-farm business, or even a residential plat.

This proposed bill also provides greater specificity as to what cannot be determined to be a nuisance as compared to the Right to Farm law. However, with the exception of the timing requirement issue I just mentioned, it is not clear that AB 59 would provide greater protection against nuisance claims as compared to that currently provided by Right to Farm.

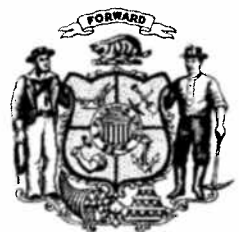
AB 59 inserts the language "except that no ordinance enacted under this section may prohibit forestry operations that are in accordance with generally accepted forestry management practices" into the statutes that give zoning authority to counties, towns and cities. This is a strong assertion of state authority since it limits county, town and city zoning authority. However, this limitation on zoning authority applies only to forestry operations which, as stated above, do not result in a land use change. At issue is the ability of landowners to conduct activities that maintain the existing land use. This is a key consideration in the Department's support for this bill.

In summary, this bill would enable landowners to maintain their ability to manage their forest land. Sustainably managed forests generate ecological, economic and social benefits that accrue to the broader public, not just the landowner. This bill would not foster land use change and, in fact, might reduce incentives to change land use out of forest. As a result, the Department supports the bill.

I appreciate this opportunity to express the Department's support for AB 59 and would be glad to answer any questions you might have.



WISCONSIN STATE LEGISLATURE





Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

Assembly Forestry Committee Testimony on AB 59

State Representative Jeffery Mursau

Chairman Friske and Members of the Committee,

Thank you for holding this hearing on Assembly Bill 59. AB 59, also known as the Wisconsin Right to Forest Act, will give forest property owners and the forest products industry greater protection under the law from frivolous legal action.

The forestry industry is an important part of Wisconsin's economy and it touches every part of the state. The forested regions of our state are becoming increasingly populous, with more and more people staking their claim in "the Northwoods." I think most people would agree that landowners have a right to harvest timber on their own land. There have, however, been instances where woodland property owners have been sued by their neighbors or by local government officials for simply cutting down trees on their own private property. While these nuisance actions have been dismissed, so far, it still requires a great deal of time and money to fight them.

The Wisconsin Right to Forest Act would protect woodland property owners from frivolous legal action. The bill specifies that forestry activity cannot be considered a nuisance if it is in compliance with generally accepted forestry management practices, as determined by the DNR by administrative rule.

The Right to Forest Act also provides landowners with proper compensation spent fighting unwarranted legal action related to their forestry activities.

The bill will also prevent local units of government from passing ordinances and resolutions that prohibit forest owners from conducting forestry operations on their land that conform to generally accepted forestry management practices. With the implementation of Smart Growth, communities are developing land use plans. The Right to Forest Act will clarify for local governments what acceptable forestry practices are and insure they are not prohibited on private lands.

Lastly, by rewarding those woodland owners and foresters who act as good stewards of the land, AB 59 will set a positive example for other people in this state to follow.

Thank you again for the opportunity to provide you with my testimony on AB 59 and I welcome any questions you may have.