

2011 DRAFTING REQUEST

Assembly Amendment (AA-SB498)

Received: 03/15/2012

Received By: btradewe

Wanted: Today

Companion to LRB:

For: David Craig (608) 266-3363

By/Representing:

May Contact:

Drafter: btradewe

Subject: Agriculture - other

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Craig@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Limit DATCP pest abatement authority on private, nonagricultural lands

Instructions:

Prevent DATCP inspectors from just entering private nonagricultural property. Mirror DNR authority with respect to invasive species, see NR 40.04 (4) (a) - (c). First seek permission, then warrant. If they find infestation, require negotiation before ordering destruction. Provide appeal process that is more effective than current process. Also, see attached.

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>
/?	btradewe 03/15/2012	mduchek 03/15/2012		_____			
/1			rschluet 03/15/2012	_____	lparisi 03/15/2012	lparisi 03/15/2012	

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/?	btradewe	<i>3/15/12</i>	<i>[Signature]</i>				

FE Sent For:

3/15/12
<END>



State of Wisconsin
2011 - 2012 LEGISLATURE

Newish

@2979/1



LRB 62966/1
RCT:med:jm

Stacy rmmr

ASSEMBLY AMENDMENT,
senate
TO 2011 ~~ASSEMBLY~~ BILL 605 *498*

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

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

3 "SECTION 1. 94.01 (4) of the statutes is amended to read:

4 94.01 (4) ~~The Subject to sub. (5), the~~ department, through its authorized agents
5 or inspectors, may enter at all reasonable times any property for purposes of
6 inspection, investigation and control of suspected pest infestations or infections and
7 may intercept, stop and detain for official inspection any person, truck, vessel,
8 aircraft or other conveyance believed to be carrying plants or other materials infested
9 or infected with pests, and may seize and destroy any such plants or other materials
10 moved, shipped or transported in violation of any law, rule, quarantine notice or
11 order.

12 SECTION 1e. 94.01 (5) of the statutes is created to read:

1 94.01 (5) Before the department enters, under sub. (4), property that is not
2 agricultural lands or agricultural business premises, the department shall seek the
3 permission of the person who owns, controls, or manages the property. If the person
4 does not grant permission or cannot be located, the department may not enter the
5 property without an inspection warrant under s. 66.0119.

6 **SECTION 1g.** 94.02 (1) of the statutes is amended to read:

7 94.02 (1) If the department finds any agricultural lands or agricultural
8 business premises, or any plants, plant parts, or pest-harboring materials located
9 thereon are so infested or infected with injurious pests as to constitute a hazard to
10 plant or animal life in the state, or any area thereof, it may notify the owner or person
11 having charge of such premises to that effect, and the owner or person in charge shall,
12 within 10 days after such notice, cause the treatment of the premises or the
13 treatment or removal and destruction of infested or infected plants, host plants or
14 other pest-harboring material as directed in the notice. No person may violate the
15 terms of any notice received under this subsection, nor may any damages be awarded
16 to the owner for such treatment, removal or destruction. Any person affected by a
17 notice or order may appeal to the department and request a hearing under s. 94.01
18 (2).

19 **SECTION 1h.** 94.02 (2) of the statutes is amended to read:

20 94.02 (2) If the owner or person in charge fails to comply with the terms of ~~the~~
21 a notice under sub. (1), within 10 days after receiving it, the department or any
22 cooperating local unit of government may proceed to treat the premises or to treat
23 or destroy the infested or infected plants or other material. The expense of such
24 abatement shall be certified to the town, city or village clerk and assessed, collected
25 and enforced against the premises upon which such expense was incurred as taxes

1 are assessed, collected, and enforced, and shall be paid to the cooperating unit of
2 government incurring the expense, or into the general fund if the control work was
3 conducted by the department.

4 **SECTION 1j.** 94.02 (2m) of the statutes is created to read:

5 94.02 (2m) (a) If the department finds that any premises other than
6 agricultural lands or agricultural business premises, or that any plants, plant parts,
7 or pest-harboring materials located on premises other than agricultural lands or
8 agricultural business premises, are so infested or infected with injurious pests as to
9 constitute a hazard to plant or animal life in the state, or any area of the state, it may
10 ask the owner or person having charge of the premises to cause the treatment of the
11 premises or the treatment or removal and destruction of infested or infected plants,
12 host plants or other pest-harboring material.

13 (b) If a person does not agree under par. (a) to cause the treatment of the
14 premises or the treatment or removal and destruction of infested or infected plants,
15 host plants or other pest-harboring material, the department may order the person
16 to take that action. A person receiving an order under this paragraph may appeal
17 the order within 30 days after the date of service. An appeal stays the order.

18 (c) If a person receiving an order under par. (b) does not appeal the order and
19 does not take the ordered action within 30 days after the date of service, the
20 department or a cooperating local unit of government may cause the treatment of the
21 premises or the treatment or removal and destruction of infested or infected plants,
22 host plants or other pest-harboring material and the person is responsible for the
23 costs of the action.”.

