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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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**2011 Wisconsin Act 180**  
[2011 Assembly Bill 377]

**Rough Fish**

2011 Wisconsin Act 180 designates Asian carp as rough fish and allows the taking of rough fish by crossbow.

### **DEFINITION OF ASIAN CARP AS “ROUGH FISH”**

#### **Background**

The statutes recognize two categories of fish that are not game fish. Under the authority of s. 29.424, Stats., the Department of Natural Resources (DNR) has declared that all species of fish that are not indigenous to the state are *nonindigenous detrimental species*. As such, the Asian carp is a detrimental species. There is no closed season on any waters of the state for taking nonindigenous detrimental fish. However, a person may only take these species by hook and line. Further, a person may only take one fish, and must immediately kill the fish and deliver it to the DNR.

The second category, *rough fish*, is not precisely defined, but s. 29.001 (74), Stats., specifies that the term *includes* “suckers, not listed as endangered or threatened under s. 29.604 (3), common carp, goldfish, freshwater drum, burbot, bowfin, garfish, sea lamprey, alewife, gizzard shad, rainbow smelt and mooneye.” In general, there is neither a closed season nor a bag limit for the taking of rough fish. Rough fish may be taken by hook and line, by hand, by dip net, and by spear, which includes bow and arrow.

Many species of both categories are also treated as *invasive species* under s. 23.22, Stats. Of pertinence for this Memo, no person may transport any live specimen of an invasive species.

### **2011 Wisconsin Act 180**

The Act amends the definition of “rough fish” by adding Asian carp to the list of included species. The result of this is to remove Asian carp from the strict regulations that apply to the taking of

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

nonindigenous detrimental fish species and apply instead the much more lenient regulations that apply to the taking of rough fish.

### **ALLOWING THE TAKING OF ROUGH FISH BY CROSSBOW**

Under *prior law*, if the DNR adopts rules that establish an open season for taking rough fish with a bow and arrow on a particular body of water, the rules must allow that activity at night. [s. 29.405 (3), Stats.] *The Act* expands this provision to refer also to taking rough fish with a crossbow. The Act further specifies that, if the DNR establishes an open season for taking rough fish with a bow and arrow on a particular body of water, the rules must allow the taking of rough fish with a crossbow under the same terms as it allows the taking of rough fish with a bow and arrow.

Under *prior law*, a person who takes rough fish with a bow and arrow must equip the arrows with a metal barbed tip and a tethered line that allows the retrieval of the rough fish. Also under prior law, a person may not release a rough fish back into the water or leave them on the banks or ice of the water, regardless of whether the fish is living or dead. Rather, the person must remove the rough fish and dispose of it in an appropriate manner. [s. 29.405 (1) and (2), Stats.] *The Act* extends these requirements to the taking of rough fish by crossbow.

*Prior law* prohibits the shining of wild animals and creates a rebuttable presumption that a person casting the rays of light on a field, forest or other area which is frequented by wild animals is shining wild animals. Prior law further prohibits the use or possession with intent to use a light for shining wild animals while the person is hunting or in possession of a firearm, bow and arrow or crossbow and the use or possession with intent to use a light for shining wild animals between 10 p.m. and 7 a.m. from September 15 to December 31, but provides an exception to these prohibitions for a person who possesses or uses a light while using a bow and arrow for taking rough fish. [s. 29.314, Stats.] *The Act* extends this exemption to a person who possesses or uses a light while using a crossbow for taking rough fish.

*In general*, it is prohibited to discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within 50 feet of the center of a roadway. *Prior law* allows a person who is fishing with a bow and arrow to shoot an arrow within 50 feet of the center of a roadway if the person does not shoot the arrow from the roadway or across a highway. [s. 167.31, Stats.] *The Act* extends this exception to the use of crossbows.

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