

**2013 DRAFTING REQUEST**

**Bill**

Received: 8/9/2013 Received By: mglass  
Wanted: As time permits Same as LRB:  
For: Amy Sue Vruwink (608) 266-8366 By/Representing:  
May Contact: Drafter: mglass  
Subject: Agriculture - animals Addl. Drafters:  
Nat. Res. - fish and game Extra Copies:

Submit via email: YES  
Requester's email: Rep.Vruwink@legis.wisconsin.gov  
Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Regulation of captive new world quail

**Instructions:**

Redraft of LRB 11-0011

**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>
/?	mglass 8/13/2013			_____			
/1		evinz 8/16/2013	jmurphy 8/16/2013	_____	lparisi 8/16/2013	lparisi 3/14/2014	State S&L

FE Sent For:

@  
INTRO

<END>

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/?	mglass	1/ eev 8/16/13	Jim 8/14	_____	_____	_____	State S&L

FE Sent For:

<END>



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-28967

MGG:.....

D-Note

iw 8/13

RMR

Leev

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

8/16 p.m.

SAW  
xref 1

gen cat

- 1 AN ACT...; relating to: regulation of captive new world quail by the Department
- 2 of Agriculture, Trade and Consumer Protection and granting rule-making
- 3 authority.

**Analysis by the Legislative Reference Bureau**

Under current law, the Department of Natural Resources (DNR) issues bird hunting preserve licenses that authorize the possession of captive game birds. These include pheasants of certain species, quail that are native to the western hemisphere (new world quail), and certain species of partridge. Each bird hunting preserve license specifies the species of game birds that are covered by the license.

A bird hunting preserve license also authorizes the holder of the license to introduce and release game birds for the purpose of establishing a population in an area of the state where the game bird is not naturally present. In addition, the license authorizes the propagation, sale, and purchase of the game birds and the hunting of the birds on the preserve by the licensee and other authorized by the licensee (licensed activities).

Current law authorizes DNR to promulgate rules to establish additional requirements that must be met before game birds are brought into the state for introduction or before they are released. Current law also authorizes DNR to promulgate and enforcing rules relating to the care, treatment, and feeding of these birds, and to conduct inspections in order to enforce the laws related to bird hunting preserves. This bill transfers from DNR to the Department of Agriculture, Trade and Consumer Protection the authority to promulgate these rules and conduct these inspections as they relate to possession and introduction of new world quail and other licensed activities related to new world quail.

enforce

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 A**

**SECTION 1.** 169.04 (4) (b) 1m. of the statutes is created to read:

169.04 (4) (b) 1m. New world quail that are not native.

**SECTION 2.** 169.04 (4) (b) 2. of the statutes is amended to read:

169.04 (4) (b) 2. ~~Nonnative wild~~ Wild birds of the family anatidae that are not native and that are migratory birds.

History: 2001 a. 56 ss. 75, 224; 2003 a. 179.

**Insert B**

**SECTION 3.** 169.06 (3m) (ag) of the statutes is created to read:

169.06 (3m) (ag) The rules promulgated under par. (a) may not include rules that apply to the housing, care, treatment, feeding, sanitation, or health of new world quail that will enter the state or that will be introduced, stocked or released into the wild.

**SECTION 4.** 169.06 (3m) (ar) of the statutes is created to read:

169.06 (3m) (ar) The department of agriculture, trade and consumer protection may promulgate rules that establish additional requirements that new world quail must meet before they enter this state or before they are introduced, stocked, or released into the wild. Rules promulgated under this paragraph may only relate to the housing, care, treatment, feeding, sanitation, and health of new world quail.

**Insert C**

1

2

3

*9 extra space*

**(END)**

1           169.01 (12m) "Farm-raised game bird" means a bird of a wild nature that is  
 2 not native, and that is held captive, but that is not possessed under the authority of  
 3 a license issued under s. 169.15, 169.19, 169.20, or 169.21.

4           SECTION 2. 169.01 (22m) of the statutes is created to read:

INSERT

5           169.01 (22m) "New world quail" means quail of the subfamily Odontophorinae.

A

6           SECTION 3. 169.06 (1) (d) 2. b. of the statutes is amended to read:

INSERT

7           169.06 (1) (d) 2. b. Within 30 days before the introducing, stocking, or release,  
 8 the wild birds meet the requirements of any rules promulgated by the department  
 9 under sub. (3m).

B

10          SECTION 4. 169.06 (3m) (a) 2. of the statutes is amended to read:

11          169.06 (3m) (a) 2. Additional requirements that any wild animals shall meet  
 12 before they may be introduced, stocked, or released into the wild.

13          SECTION 5. 169.06 (3m) (ag) of the statutes is created to read:

14          169.06 (3m) (ag) The rules promulgated under par. (a) may not apply to the  
 15 housing, care, treatment, feeding, sanitation, or health of new world quail.

16          SECTION 6. 169.06 (3m) (ar) of the statutes is created to read:

17          169.06 (3m) (ar) The department of agriculture, trade and consumer protection  
 18 may promulgate rules that establish additional requirements that new world quail  
 19 must meet before they enter this state or before they are introduced, stocked, or  
 20 released into the wild. Rules promulgated under this paragraph may only relate to  
 21 the housing, care, treatment, feeding, sanitation, and health of new world quail.

Q

22          SECTION 7. 169.06 (3m) (b) of the statutes is amended to read:

INSERT

23          169.06 (3m) (b) The requirements under ~~par.~~ par. (a) and (ar) may include  
 24 mandatory testing of the wild animals for disease.

C  
(start)

25          SECTION 8. 169.19 (2) (b) 2. of the statutes is repealed and recreated to read:



INSERT  
C

1 169.19 (2) (b) 2. New world quail.

2 SECTION 9. 169.20 (1) (d) of the statutes is amended to read:

3 169.20 (1) (d) A person training a bird dog in a bird hunting preserve for which  
4 the hunting of pheasant, new world quail, mallard ducks bred in captivity, or  
5 partridge has been authorized under a bird hunting preserve license is exempt from  
6 holding a bird dog training license to possess, release into the wild, and hunt live  
7 captive wild birds for the purposes of training the dog to retrieve, point, flush, and  
8 track wild birds.

9 SECTION 10. 169.36 (10) (c) of the statutes is created to read:

10 169.36 (10) (c) If the annual report submitted to the department under sub. (a)  
11 contains information relating to new world quail, the person holding the license shall  
12 submit a copy of the report to the department of agriculture, trade and consumer  
13 protection within 30 days after the last day of the license year that the report covers.

14 SECTION 11. 169.37 (1) (d) of the statutes is amended to read:

15 169.37 (1) (d) Investigate and inspect any wild animal ~~or any other animal,~~  
16 other than new world quail, that is to be introduced, stocked, or released into the  
17 wild. Inspection under this paragraph may include the removal of reasonable  
18 diagnostic samples from wild animals for biological examination.

19 SECTION 12. 169.38 (title) of the statutes is amended to read:

20 169.38 (title) ~~Inspections of items subject to regulation by involving the~~  
21 department of agriculture, trade and consumer protection.

22 SECTION 13. 169.38 (1) (title) of the statutes is repealed and recreated to read:

23 169.38 (1) (title) FARM-RAISED DEER AND FARM-RAISED GAME BIRDS.

24 SECTION 14. 169.38 (1m) of the statutes is created to read:

INSERT M

CS

~~DEPARTMENT OF~~ AUTHORITY

INSERT

C

1 169.38 (1m) NEW WORLD QUAIL. (a) For purposes of enforcing s. 169.39 and rules  
2 promulgated under s. 169.39, with respect to a person who possesses new world  
3 quail, an inspector or other representative authorized by the department of  
4 agriculture, trade and consumer protection, upon presenting his or her credentials  
5 to that person, may do any of the following:

6 1. Enter and inspect any land, vehicle, building, or other structure where new  
7 world quail are possessed or where carcasses of new world quail are possessed.

8 2. Inspect any equipment, materials, or other activities related to new world  
9 quail.

10 3. Gain access to and inspect any records that relate to new world quail that  
11 are required to be kept under s. 169.36 (9) or any rules promulgated under s. 169.36  
12 (9).

13 4. Investigate and inspect new world quail that are to be introduced, stocked,  
14 or released into the wild. Inspection under this subdivision may include the removal  
15 of reasonable diagnostic samples from wild animals for biological examination.

16 (b) Only persons determined by the department of agriculture, trade and  
17 consumer protection to be experienced in wildlife disease may remove diagnostic  
18 samples under par. (a) 4.

19 SECTION 15. 169.38 (2) (intro.) of the statutes is amended to read:

20 (1g) 169.38 (2) TIMES FOR INSPECTIONS. (intro.) An inspection authorized under sub.  
21 (1) or (1m) may be conducted during any of the following times:

22 SECTION 16. 169.38 (2) (b) of the statutes is amended to read:

23 169.38 (2) (b) During the time that the person who keeps new world quail,  
24 white-tailed deer, farm-raised game birds, or wild animals is conducting business.

25 SECTION 17. 169.39 (1) of the statutes is amended to read:

to end of draft

1           169.39 (1) COMPLIANCE WITH RULES. No license may be issued under this chapter  
2 unless the department determines that the applicant will comply with all of the rules  
3 promulgated under subs. (2), <sup>✓</sup>(2m), and (3).

4           <sup>✗</sup>SECTION 18. 169.39 (2) (intro.) of the statutes is amended to read:

5           169.39 (2) RULES; GENERAL. (intro.) The department shall promulgate and  
6 enforce rules for the housing, care, treatment, enrichment, feeding, and sanitation  
7 of wild animals, other than new world quail, that are subject to regulation under this  
8 chapter to ensure all of the following:

9           <sup>✓</sup>SECTION 19. 169.39 (2m) of the statutes is <sup>✓</sup>created to read:

10           169.39 (2m) RULES; NEW WORLD QUAIL. The department of agriculture, trade and  
11 consumer protection shall promulgate and enforce rules for the housing, care,  
12 treatment, feeding, sanitation, and health of new world quail to ensure all of the  
13 following:

- 14           (a) That the new world quail receive humane treatment.  
15           (b) That the new world quail are held under sanitary conditions.  
16           (c) That the new world quail receive adequate housing, care, and food.

17           <sup>✗</sup>SECTION 20. 169.39 (3) of the statutes is amended to read:

18           169.39 (3) RULES; HOUSING. The rules for housing under ~~sub.~~ subs. (2) and (2m)  
19 shall include requirements for the size and location of permanent enclosures and of  
20 temporary enclosures at locations other than those where the wild animals are  
21 permanently housed. The rules regulating the location of enclosures shall include  
22 the distance required between 2 enclosures. The rules for housing under sub. (2)  
23 shall include specifications for enclosures for each species of harmful wild animal  
24 that the department designates under s. 169.11 (1).

25           <sup>✗</sup>SECTION 21. 169.39 (4) of the statutes is amended to read:

1           169.39 (4) ORDERS. The department may issue an order requiring any person  
2 holding a license under this chapter to comply with the rules promulgated under sub.  
3 (2). The department of agriculture, trade and consumer protection may issue an  
4 order requiring any person possessing new world quail to comply with the rules  
5 promulgated under sub. (2m).

6           **SECTION 22.** 169.42 (3) of the statutes is created to read:

7           169.42 (3) NEW WORLD QUAIL. (a) A conservation warden who takes a new world  
8 quail into custody under sub. (1) or (2) shall notify the department of agriculture,  
9 trade and consumer protection within 24 hours of its acceptance into custody. The  
10 department of natural resources shall transfer the new world quail to the  
11 department of agriculture, trade and consumer protection within 24 hours after  
12 receiving a request to do so by the department of agriculture, trade and consumer  
13 protection.

14           (b) An inspector or other representative of the department of agriculture, trade  
15 and consumer protection has the same authority with respect to taking new world  
16 quail into custody as does a conservation warden under sub. (1).

17           **SECTION 23. Nonstatutory provisions.**

18           (1) RULES AND ORDERS. All rules promulgated by the department of natural  
19 resources that relate to the housing, care, treatment, feeding, sanitation, or health  
20 of new world quail and that are in effect on the effective date of this subsection  
21 remain in effect until their specified expiration date or until amended or repealed by  
22 the department of agriculture, trade and consumer protection. All orders issued by  
23 the department of natural resources that relate to the housing, care, treatment,  
24 feeding, sanitation, or health of new world quail and that are in effect on the effective  
25 date of this subsection remain in effect until their specified expiration date or until

1 modified or rescinded by the department of agriculture, trade and consumer  
2 protection.

3 (2) PENDING MATTERS. All matters pending with the department of natural  
4 resources on the effective date of this subsection that relate to the housing, care,  
5 treatment, feeding, sanitation, or health of new world quail are transferred to the  
6 department of agriculture, trade and consumer protection and any material  
7 submitted to or action taken by the department of natural resources with respect to  
8 the pending matter is considered as having been submitted to or taken by the  
9 department of agriculture, trade and consumer protection.

10 **SECTION 24. Effective date.**

11 (1) This act takes effect on the first day of the 7th month beginning after  
12 publication.

13

(END)

~~TR~~  
END OF  
INSERT  
C

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2896/lins  
MGG:.....

*Insert M*

1

2

SECTION 1. 169.38<sup>✓</sup> (1b) of the statutes is created<sup>✓</sup> to read:

3

169.38 (1b) DEFINITION. In this section, "wild animal" does not include new

4

world quail.

5

SECTION 2. 169.38<sup>✓</sup> (1) (title) of the statutes is repealed<sup>✓</sup> and recreated to read:

6

169.38 (1) (title) AUTHORITY.

7

SECTION 3. 169.38<sup>✓</sup> (1) of the statutes is renumbered<sup>✓</sup> 169.38 (1g).

*★  
Component  
changed to  
Renumbered*

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

4  
LRB-28967/dn

MGG:.....  
eev

(date)

Please note that the definition of "new world quail" in this draft includes both native and nonnative new world quail.

There is an inconsistency in current law. Although new world quail (odontophorinae) are listed as being species that may be possessed by a holder of a bird hunting preserve license, new world quail are not listed under s. 169.04 (4) (b) as a nonnative type of wild animal that is subject to ch. 169. I, therefore, added nonnative new world quail to the list. See s. 169.04 (4) (b) 1m.

Chapter 169 is quite complex and carving out an exemption relating just to the health of new world captive quail required my making decisions as how the provisions in that chapter were to apply to such quail. Therefore, I recommend that you have DATCP and DNR review this draft carefully to make sure it achieves the desired intent of the legislation.

\* Section 169.38 (1m) is modeled after ss. 169.37 (1) and 169.38 (1). Please review these provisions in current law to see if there needs to be any changes in s. 169.38 (1m). Specifically, are there any records kept under ch. 93 or 95 that would apply to these quail? If so, you may want language similar to s. 169.38 (1) (c) or (d).

In s. 169.39 (2) (intro.), the word "enrichment" is used. I did not know whether this concept would apply to quail so I omitted it. OK?

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

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

LRB-2896/1dn  
MGG:eev:jm

August 16, 2013

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Phone: (608) 267-3215

**Parisi, Lori**

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**From:** Pollocoff, Erin  
**Sent:** Friday, March 14, 2014 9:39 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2896/1 Topic: Regulation of captive new world quail

Please Jacket LRB -2896/1 for the ASSEMBLY.