

**2013 DRAFTING REQUEST**

**Bill**

Received: **4/25/2013** Received By: **eshea**  
 Wanted: **As time permits** Same as LRB:  
 For: **Frank Lasee (608) 266-3512** By/Representing: **Rob Kovach**  
 May Contact: **DNR** Drafter: **eshea**  
 Subject: **Nat. Res. - nav. waters** Addl. Drafters:  
**Nat. Res. - wet/shore/flood** Extra Copies:

Submit via email: **YES**  
 Requester's email: **Sen.Lasee@legis.wisconsin.gov**  
 Carbon copy (CC) to: **elisabeth.shea@legis.wisconsin.gov**  
**robin.kite@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

DNR general permit authority to allow temporary net pens.

**Instructions:**

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>
/P1	rkite 8/9/2013	scalvin 6/25/2013	rschluet 6/26/2013	_____	srose 6/26/2013		State
/P2	rkite 8/12/2013	scalvin 8/9/2013	jfrantze 8/9/2013	_____	lparisi 8/9/2013		State
/P3	rkite	scalvin	jmurphy	_____	sbasford		State

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/1	rkite 8/22/2013	scalvin 8/15/2013	jmurphy 8/15/2013	_____	lparisi 8/15/2013	lparisi 8/15/2013	State
/2	rkite 8/26/2013	evinz 8/22/2013	rschluet 8/23/2013	_____	sbasford 8/23/2013	sbasford 8/23/2013	State
/3		evinz 8/26/2013	jfrantze 8/26/2013	_____	lparisi 8/26/2013	lparisi 8/26/2013	State

FE Sent For:

→ At Intro.

<END>

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### Topic:

DNR general permit authority to allow temporary net pens.

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### Instructions:

See attached

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FE Sent For:

13 eev  
8/20/13

  
8/26  
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/P3	rkite	scalvin	murphy	_____	sbasford		State

*8/20/13*

*5m*

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		scalvin 8/15/2013	jmurphy 8/15/2013	_____	lparisi 8/15/2013	lparisi 8/15/2013	State

FE Sent For:

12 eev  
8/22/13

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**robin.kite@legis.wisconsin.gov**

**Pre Topic:**

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*Please  
jacket  
/1 RNR*

**Topic:**

DNR general permit authority to allow temporary net pens. ✓

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See attached

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/P3		scalvin	jmurphy	_____	sbasford		State

*1 sac  
08/19/2013*

*Jim  
8/15 self*

Vers. Drafted

Reviewed  
8/12/2013

Typed  
8/13/2013

Proofed  
\_\_\_\_\_

Submitted  
8/13/2013

Jacketed

Required

FE Sent For:

<END>

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 Robin.Kite@legis.wisconsin.gov *added*

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FE Sent For:		<i>/PB sac 08/12/2013</i>	<i>Jm 8/12</i>	<i>Jm + JB 8/13</i>			

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Carbon copy (CC) to: **elisabeth.shea@legis.wisconsin.gov**  
**Robin.Kite@legis.wisconsin.gov**

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FE Sent For: *p2 sac*  
*08/09/2013*   
**<ENDS>**

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/P1	eshea	/P1 sac 04/25/2013		_____	_____		
FE Sent For:							

<END>

## Shea, Elisabeth

---

**From:** Shea, Elisabeth  
**Sent:** Thursday, May 02, 2013 2:23 PM  
**To:** Kovach, Robert  
**Subject:** RE: Drafting Request--Net pens

Rob:

I will be working on this drafting request. Just wanted to clarify - should this bill allow use of a net pen for both non-commercial and commercial purposes? For example, would a commercial fish hatchery, as opposed to a sport fishing club, be able to set up a net pen on navigable water?

Lis

**Elisabeth H. Shea**  
Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 266 - 5446  
[elisabeth.shea@legis.wisconsin.gov](mailto:elisabeth.shea@legis.wisconsin.gov)

---

**From:** Kovach, Robert  
**Sent:** Thursday, April 25, 2013 12:55 PM  
**To:** LRB.Legal  
**Cc:** Bruhn, Michael L - DNR; Vander Leest, John  
**Subject:** Drafting Request--Net pens

Dear LRB Legal.

I need a bill drafted that would give DNR general permit authority to allow net temporary net pens. Net pens are a way to help young fish transition from a fish hatchery to the waterway where they are planted. Usually sport fishing/sportsman clubs would be interested in a permit for this. The permit should be allowed to carry over for as many seasons as general permits can last.

It is ok to discuss the drafting of this bill with the DNR. Especially Mike Bruhn, Pam Biersach, Michael Staggs, and Dr. McGraw the State Vet.

This bill is not being drafted on behalf of the DNR, but the people mentioned above can be of assistance on the technical points, if needed.

We will need to define net pens in statute also.

**Rob Kovach**  
Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512



LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

6/12/13 Tel conf. John Vander Leest, Sen. Lasee office

ETTS

Following up on this draft.

He said draft should allow use of net pen for sport fishing groups  
(non-commercial) only

Request came from sport fishing group in Kenosha

Don't want to deal w/annual licenses → several years

## Shea, Elisabeth

---

**From:** Staggs, Mike D - DNR <Mike.Staggs@wisconsin.gov>  
**Sent:** Monday, June 17, 2013 2:47 PM  
**To:** Bruhn, Michael L - DNR; Shea, Elisabeth  
**Cc:** Biersach, Pamela A - DNR  
**Subject:** RE: Drafting Request--Net pens

To be consistent with existing definitions in 95.001, you might use the term "waters of the state" instead of "navigable"; and "rear" instead of "raise". I would add the term "hold" along with "rear" to cover a situation where the fish are held for only a short period. Also, 95.001 also covers fish eggs which in theory could be hatched in a net pen. An alternative might be:

"An enclosure placed in the waters of the state and used to hatch fish eggs, or hold or rear fish"

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**From:** Bruhn, Michael L - DNR  
**Sent:** Sunday, June 16, 2013 9:39 PM  
**To:** Shea, Elisabeth - LEGIS  
**Cc:** Biersach, Pamela A - DNR; Staggs, Mike D - DNR  
**Subject:** RE: Drafting Request--Net pens

Pam and Mike,

Can you take a look at the net pen definition that Lis has created (see below), and let her know your thoughts?

Thanks!!

Michael Bruhn  
Legislative Liaison  
Wisconsin Department of Natural Resources  
(📞) phone: (608) 266-5375  
(✉) e-mail: [michael.bruhn@wisconsin.gov](mailto:michael.bruhn@wisconsin.gov)  
Website: [dnr.wi.gov](http://dnr.wi.gov)  
Find us on Facebook: [www.facebook.com/WIDNR](http://www.facebook.com/WIDNR)

---

**From:** Shea, Elisabeth [<mailto:Elisabeth.Shea@legis.wisconsin.gov>]  
**Sent:** Friday, June 14, 2013 3:00 PM  
**To:** Bruhn, Michael L - DNR  
**Subject:** FW: Drafting Request--Net pens

Hi Mike,

I'm working on this draft for Sen. Lasee that would allow net pens under a general permit. I'm hoping you or someone else at DNR can help me answer this. What is a good definition of a net pen? From

what I can gather, it would be something like this: "An enclosure placed in navigable water and used to raise fish." It is my understanding that these are distinguishable from a body of water, like a pond or pool, that is built or used entirely to raise fish. Rather, net pens are used in existing bodies of water and confine the fish in one area. Let me know if you have any comments on this.

Thanks!

Lis

---

**From:** LRB.Legal  
**Sent:** Thursday, April 25, 2013 1:10 PM  
**To:** Kite, Robin; Gibson-Glass, Mary  
**Cc:** Kovach, Robert  
**Subject:** FW: Drafting Request--Net pens

Drafting Request

---

**From:** Kovach, Robert  
**Sent:** Thursday, April 25, 2013 12:55 PM  
**To:** LRB.Legal  
**Cc:** Bruhn, Michael L - DNR; Vander Leest, John  
**Subject:** Drafting Request--Net pens

Dear LRB Legal.

I need a bill drafted that would give DNR general permit authority to allow net temporary net pens. Net pens are a way to help young fish transition from a fish hatchery to the waterway where they are planted. Usually sport fishing/sportsman clubs would be interested in a permit for this. The permit should be allowed to carry over for as many seasons as general permits can last.

It is ok to discuss the drafting of this bill with the DNR. Especially Mike Bruhn, Pam Biersach, Michael Staggs, and Dr. McGraw the State Vet.

This bill is not being drafted on behalf of the DNR, but the people mentioned above can be of assistance on the technical points, if needed.

We will need to define net pens in statute also.

## **Rob Kovach**

Policy Advisor/Committee Clerk  
Office of Senator Frank Lasee  
(608) 266-3512

## Shea, Elisabeth

---

**From:** Vander Leest, John  
**Sent:** Wednesday, June 19, 2013 2:31 PM  
**To:** Shea, Elisabeth  
**Cc:** Kovach, Robert; Jenkins, Kevin  
**Subject:** RE: Net Pen Legislation

Elisabeth,

I understand, I'm fine with a draft late next week or the beginning of July.  
I'm helping Rob on this project. So please copy both of us.

Thank you for your help on this legislation.

*John Vander Leest*  
*District Director for Senator Lasee*  
*920-737-0999*

---

**From:** Shea, Elisabeth  
**Sent:** Wednesday, June 19, 2013 2:29 PM  
**To:** Vander Leest, John  
**Subject:** RE: Net Pen Legislation

Hi John,

Thank you for following up. Our office has been busy with the budget but I am working on this draft now. I originally had Rob Kovach as the contact person for this request. Is that correct or should I change it to you?

Thank you.

Lis

**Elisabeth H. Shea**  
Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 266 - 5446  
[elisabeth.shea@legis.wisconsin.gov](mailto:elisabeth.shea@legis.wisconsin.gov)

---

**From:** Vander Leest, John  
**Sent:** Tuesday, June 18, 2013 3:23 PM  
**To:** Shea, Elisabeth  
**Cc:** Kovach, Robert; Jenkins, Kevin  
**Subject:** Net Pen Legislation

Elisabeth,

Thank you for speaking with me last week about the Net Pen legislation that you are assisting our office with. Please let me know when you have a draft ready for review. Let me know if you have any additional questions that I can assist with.

*John Vander Leest*  
*District Director for Senator Lasee*  
*920-737-0999*



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2251/P1

EHS:j:...

SAC

uw  
6/25

D-NOTE

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 *gen cat*  
AN ACT *gen cat*; relating to: allowing placement of net pens in navigable waters under  
2 a statewide general permit.

***Analysis by the Legislative Reference Bureau***

Under current law, no person may place a structure upon the bed of any navigable water where no bulkhead line has been established or beyond a lawfully established bulkhead line unless the Department of Natural Resources (DNR) has issued an individual or general permit allowing the structure. Certain structures, including a fish crib intended to improve fish habitat, certain piers and wharves, and a biological shore erosion control structure, are exempted from these permitting requirements if they are not in an area of special natural resource interest and do not interfere with riparian rights.

This bill requires DNR to issue a statewide general permit that authorizes a riparian owner to place a net pen in navigable water adjacent to the owner's property as long as the net pen is not used for commercial purposes. The bill defines a net pen as an enclosure placed in a body of water and used to hatch fish eggs or to hold or rear fish.

For further information see the *state* 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:***



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

LRB-2251/P1dn

EHS:/:...

*see*

- date -

Rob and John:

\* This draft allows the placement of net pens in navigable waters for non-commercial purposes. Note that permission under a general permit authorizes only a riparian owner to place a structure in navigable waters and is limited to the navigable water adjacent to the riparian owner's property. A general permit is valid for a period of 5 years or until the activity is completed, whichever occurs first, under s. 30.206 (1) (b). *five*

\* Note that a person who places a net pen as allowed under a general permit would still need any relevant permit under subch. X of ch. 29 to propagate or stock fish in the net pen or to release fish from the net pen. Also, it is possible that the use of a net pen for hatching or rearing fish might qualify as a "fish farm" under ch. 29 or s. 95.60, and therefore may be subject to other provisions that apply to fish farms. *a*

Let me know if you have any questions or if you would like any changes to the draft.

Elisabeth H. Shea  
Legislative Attorney  
Phone: (608) 266-5446  
E-mail: elisabeth.shea@legis.wisconsin.gov

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

LRB-2251/P1dn

EHS:sac:rs

June 26, 2013

Rob and John:

This draft allows the placement of net pens in navigable waters for noncommercial purposes. Note that permission under a general permit authorizes only a riparian owner to place a structure in navigable waters and is limited to the navigable water adjacent to the riparian owner's property. A general permit is valid for a period of five years or until the activity is completed, whichever occurs first, under s. 30.206 (1) (b).

Note that a person who places a net pen as allowed under a general permit would still need any relevant permit under subch. X of ch. 29 to propagate or stock fish in the net pen or to release fish from the net pen. Also, it is possible that the use of a net pen for hatching or rearing fish might qualify as a "fish farm" under ch. 29 or s. 95.60, and therefore may be subject to other provisions that apply to fish farms.

Let me know if you have any questions or if you would like any changes to the draft.

Elisabeth H. Shea  
Legislative Attorney  
Phone: (608) 266-5446  
E-mail: [elisabeth.shea@legis.wisconsin.gov](mailto:elisabeth.shea@legis.wisconsin.gov)

**Shea, Elisabeth**

---

**From:** Kite, Robin  
**Sent:** Thursday, July 11, 2013 2:26 PM  
**To:** Vander Leest, John  
**Cc:** Gibson-Glass, Mary; Shea, Elisabeth; Jenkins, Kevin; Kovach, Robert  
**Subject:** RE: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

John:

The current version of the draft accomplishes your objectives below. It requires DNR to issue a general permit to allow a riparian owner (in this case the city of Kewaunee) to place a net pen in navigable waters adjacent to the owner's property. Under current law, a general permit is issued for a period of 5 years and the fee for coverage by an applicant is \$300. Let me know if you have additional drafting instructions.

Robin

---

**From:** Vander Leest, John  
**Sent:** Thursday, July 11, 2013 2:11 PM  
**To:** Kite, Robin  
**Cc:** Gibson-Glass, Mary; Shea, Elisabeth; Jenkins, Kevin; Kovach, Robert  
**Subject:** RE: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Robin,

Per our discussion, here is what I'm looking for on the Net Pen legislation. Let me know if you have any further questions on the information below.  
 Thank you for your assistance.

- Follow your guidelines with the riparian requirement (The sports fisherman will need to work with the City of Kewaunee for the permit in the example I'm working on)
- General permit of \$300 which will last for 5 years (this is a 1 time payment for the 5 years)

*John Vander Leest*  
 District Director for Senator Lasee  
 920-737-0999

---

**From:** Kite, Robin  
**Sent:** Thursday, July 11, 2013 11:02 AM  
**To:** Vander Leest, John  
**Cc:** Gibson-Glass, Mary; Shea, Elisabeth  
**Subject:** RE: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

John:

As we discussed, I called Mike Bruhn at DNR for more information on this issue. He is going to talk to others at DNR who are also familiar with this issue and get back to me with more information. As soon as I hear from him, I will let you know. Also, in answer to your question about fees, the fee for a general permit is typically \$300.

Thanks.

Robin

---

**From:** Vander Leest, John  
**Sent:** Thursday, July 11, 2013 9:35 AM  
**To:** Shea, Elisabeth  
**Cc:** Kite, Robin; Gibson-Glass, Mary  
**Subject:** Re: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Lis,

The City Kewaunee would not be applying for the permit, it would be the sportsman group who is handling the project. The City of Kewaunee is giving permission for the pens to be placed. This might cause an issue.

Please account for this scenario without the City applying.

Also, what is the cost for the permit?

John

Sent from my iPhone

On Jul 11, 2013, at 9:28 AM, "Shea, Elisabeth" <[Elisabeth.Shea@legis.wisconsin.gov](mailto:Elisabeth.Shea@legis.wisconsin.gov)> wrote:

Hi John,

Just to follow up on our phone conversation, I think this scenario would be covered under the bill as drafted if the city is the one covered by the general permit. The city, not the sports fishing group, would be the one to apply to DNR with notification if its wish to proceed with placing net pens in the harbor. Once covered by the general permit, I don't see anything in the statute that would prevent the city from entering into an agreement with a sports fishing group to actually place and maintain the net pens.

If you have further questions and I'm not here, please feel free to contact Robin Kite (266-7291) or Mary Gibson-Glass (267-3215).

Lis

---

**From:** Vander Leest, John  
**Sent:** Thursday, July 11, 2013 8:42 AM  
**To:** Shea, Elisabeth  
**Subject:** Re: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Lis,

Any way to get changes to me by Fri AM? I promised a draft to some parties for Friday.

John Vander Leest

Sent from my iPhone

On Jul 10, 2013, at 2:15 PM, "Shea, Elisabeth" <[Elisabeth.Shea@legis.wisconsin.gov](mailto:Elisabeth.Shea@legis.wisconsin.gov)> wrote:

Hi John,

I will soon be leaving on maternity leave. I have passed your request along to Robin Kite and Mary Gibson-Glass, who will be taking over on this for me while I'm gone. One of them will contact you in the next few days or early next week.

Lis

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**From:** Shea, Elisabeth

**Sent:** Tuesday, July 09, 2013 1:39 PM

**To:** Vander Leest, John

**Subject:** RE: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Hi John,

I'll take a look and get back to you.

Lis

---

**From:** Vander Leest, John

**Sent:** Tuesday, July 09, 2013 1:13 PM

**To:** Shea, Elisabeth

**Cc:** Jenkins, Kevin; Kovach, Robert

**Subject:** Fwd: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Elisabeth,

We are working with a sports fishing group in Kewaunee who is working with the City of Kewaunee to place the pens in the Kewaunee Harbor area. If State legislation is approved for this purpose, they would have a written agreement to place the pens in the Kewaunee harbor.

The language related to ownership may need to be tweaked to allow for the above scenario.

Let me know your thoughts.

John Vander Leest  
District Director for Senator Lasee  
920-737-0999

Begin forwarded message:

**From:** Sen.Lasee <[Sen.Lasee@legis.wisconsin.gov](mailto:Sen.Lasee@legis.wisconsin.gov)>

**Date:** July 9, 2013, 12:03:31 PM CDT

**To:** "Vander Leest, John"

<[John.VanderLeest@legis.wisconsin.gov](mailto:John.VanderLeest@legis.wisconsin.gov)>

**Subject:** FW: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

**From:** LRB.Legal

**Sent:** Wednesday, June 26, 2013 9:26 AM

**To:** Sen.Lasee

**Subject:** Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

**Following is the PDF version of draft LRB -2251/P1 and drafter's note.**

## Kite, Robin

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**From:** Vander Leest, John  
**Sent:** Friday, August 09, 2013 9:54 AM  
**To:** Kite, Robin  
**Subject:** RE: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Robin,

We have some visitors coming to Madison on Monday to discuss the net pen bill. Is there any chance you can have it ready by the close of business or on Mon AM?  
Let me know your thoughts.

John Vander Leest

---

**From:** Kite, Robin  
**Sent:** Friday, August 02, 2013 3:50 PM  
**To:** Vander Leest, John  
**Subject:** RE: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

John

I will make these changes and let you know if I have any questions.

Robin

---

**From:** Vander Leest, John  
**Sent:** Friday, August 02, 2013 1:13 PM  
**To:** Kite, Robin  
**Cc:** Bruhn, Michael L - DNR; Jenkins, Kevin; Gibson-Glass, Mary  
**Subject:** FW: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Robin,

Below are some changes to the respective bill language for Net Pens to clarify the intent on 2 items. I've copied Mike Bruhn from the DNR if you want his input.  
Let me know if you have questions on these changes.

Thank you for your assistance.

1. This bill would restrict net pens to be used for conservation efforts only. See language below.
2. Net pens will be exempt from DATCP fish farm registration and DATCP fish health rules. Language would need to be developed, see info below

Our team agrees on clarifying the conservation intent. This language should be added to the bill draft. Do you have suggested language to add?  
"30.12 (3) (a) 7. Place a net pen in navigable waters adjacent to the owner's property if the net pen is not used for commercial purposes and stocking of fish from the net pen into the navigable water is authorized under s. 29.736." The GP would only then be allowable if it was a DNR stocking or a stocking permit had been issued. This would also mean that whatever fish are

placed into the net pen would have to initially meet DATCP health standards which is a good thing.

We would like to exempt net pens used for conservation from DATCP fish farm registration and DATCP fish health rules since this is a temporary pen in a natural waterway. Would this be permissible by State and Federal laws?

I talked earlier to Dr. Paul McGraw who is the Administrator of the DATCP Division of Animal Health and they were amenable to including an appropriate exemption for net pens in the definition of fish farms in chapter 95 (perhaps 95.60 or 95.001). I am not aware that this would create any conflicts with other state or federal laws, but I would consult with DATCP. I am copying Dr. McGraw so he can provide appropriate input.

John Vander Leest  
District Director for Senator Lasee  
920-737-0999

---

**From:** Bruhn, Michael L - DNR [<mailto:Michael.Bruhn@wisconsin.gov>]  
**Sent:** Monday, July 29, 2013 9:27 PM  
**To:** Vander Leest, John  
**Subject:** FW: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

John,

Our Fisheries Bureau Director's comments are below.

Thanks,

Michael Bruhn  
Legislative Liaison  
Wisconsin Department of Natural Resources  
(☎) phone: (608) 266-5375  
(✉) e-mail: [michael.bruhn@wisconsin.gov](mailto:michael.bruhn@wisconsin.gov)  
**Website:** [dnr.wi.gov](http://dnr.wi.gov)  
**Find us on Facebook:** [www.facebook.com/WIDNR](http://www.facebook.com/WIDNR)

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**From:** Staggs, Mike D - DNR  
**Sent:** Monday, July 29, 2013 6:35 PM  
**To:** Bruhn, Michael L - DNR  
**Cc:** Biersach, Pamela A - DNR; McGraw, Paul J - DATCP  
**Subject:** RE: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

Comments:

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## Kite, Robin

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**Sent:** Friday, August 02, 2013 1:13 PM  
**To:** Kite, Robin  
**Cc:** Bruhn, Michael L - DNR; Jenkins, Kevin; Gibson-Glass, Mary  
**Subject:** FW: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.  
**Attachments:** 13-2251\_P1.pdf; 13-2251\_P1dn.pdf

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John Vander Leest  
District Director for Senator Lasee  
920-737-0999

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**Subject:** FW: Draft review: LRB -2251/P1 Topic: DNR general permit authority to allow temporary net pens.

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Michael Bruhn  
Legislative Liaison  
Wisconsin Department of Natural Resources  
(☎) phone: (608) 266-5375  
(✉) e-mail: [michael.bruhn@wisconsin.gov](mailto:michael.bruhn@wisconsin.gov)  
Website: [dnr.wi.gov](http://dnr.wi.gov)  
Find us on Facebook: [www.facebook.com/WIDNR](http://www.facebook.com/WIDNR)

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Mon. 9:00 am

Rm  
run



State of Wisconsin  
2013 - 2014 LEGISLATURE



p2

LRB-2251/10

EHS/sac:fs

RJK

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

In  
8/19

D-Note

LRS: make marked  
change to Carbon copy  
list on request sheet

1 **AN ACT to create** 30.01 (4o) and 30.12 (3) (a) 7. of the statutes; **relating to:**  
2 allowing placement of net pens in navigable waters under a statewide general  
3 permit. *and exemptions for certain requirements that apply to fish farms*

***Analysis by the Legislative Reference Bureau***

Under current law, no person may place a structure upon the bed of any navigable water where no bulkhead line has been established or beyond a lawfully established bulkhead line unless the Department of Natural Resources (DNR) has issued an individual or general permit allowing the structure. Certain structures, including a fish crib intended to improve fish habitat, certain piers and wharves, and a biological shore erosion control structure, are exempted from these permitting requirements if they are not in an area of special natural resource interest and do not interfere with riparian rights.

This bill requires DNR to issue a statewide general permit that authorizes a riparian owner to place a net pen in navigable water adjacent to the owner's property as long as the net pen is not used for commercial purposes. The bill defines a net pen as an enclosure placed in a body of water and used to hatch fish eggs or to hold or rear fish.

INS  
Analysis

→ For further information see the **state** 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:***

INS.  
2-1

1 SECTION 1. 30.01<sup>✓</sup> (4o) of the statutes is created to read:

2 30.01 (4o) "Net pen" means an enclosure placed in a body of water and used  
3 to hatch fish eggs or to hold or rear fish.

4 SECTION 2. 30.12<sup>✓</sup> (3) (a) 7. of the statutes is created to read:

5 30.12 (3) (a) 7. Place a net pen in navigable waters adjacent to the owner's  
6 property if the net pen is not used for commercial purposes.

INS.  
2-6

7 (END)

and the owner holds  
a permit under  
S. 29.736<sup>✓</sup>0e

INSERT ANALYSIS

Under current law, the Department of Agriculture, Trade and Consumer Protection (DATCP) administers laws regulating fish farms. A fish farm is a facility at which a person hatches fish eggs or rears fish for the purpose of introduction into the waters of the state or for various other purposes including human or animal consumption. Current law requires most persons who bring fish or fish eggs into this state for the purpose of introduction into the waters of this state to obtain a permit from DATCP. Current law also requires a person who operates a fish farm to annually register the fish farm with DATCP.

This bill exempts from these requirements a person who places a net pen in the waters of this state for the purpose of hatching fish eggs or holding or rearing fish if the placement of the net pen is authorized by a general permit issued by DNR. The exemption applies with respect those fish or fish eggs held, placed, or reared in that net pen.

1

INSERT 2-1

✕

2

**SECTION 1.** 29.503 (7) of the statutes is amended to read:

3

29.503 (7) EXEMPTION. This section does not apply to fish produced in a state

4

or municipal fish hatchery or to farm-raised fish that are bought, bartered, sold,

5

obtained, processed, solicited, or transported by a person who operates a fish farm

6

that is registered, or exempt from registration, under s. 95.60 (3m) or by that person's

7

employees.

History: 1975 c. 365; 1979 c. 142; 1983 a. 27; 1985 a. 29; 1991 a. 316; 1995 a. 227; 1997 a. 27, 191, 237; 1997 a. 248 ss. 291 to 296, 556; Stats. 1997 s. 29.503; 2001 a. 109; 2005 a. 288.

INSERT 2-6

✓

8

**SECTION 2.** 95.60 (2) (a) (intro.) of the statutes is amended to read:

9

95.60 (2) (a) (intro.) Except as provided in sub. (3r) and par. (e), no person may

10

bring any fish or fish eggs into this state for the purpose of introduction into the

11

waters of the state, of use as bait or of rearing in a fish farm without an annual permit

12

issued by the department.

History: 1997 a. 27, 237; 1999 a. 32; 2001 a. 16, 56; 2003 a. 126; 2005 a. 25; 2009 a. 28; 2011 a. 207, 209.

13

**SECTION 3.** 95.60 (2) (f) of the statutes is created to read:

(3r)

1           95.60 (3r) A person who places a net pen in the waters of this state for the  
2 purpose of hatching fish eggs or holding or rearing fish as authorized under a general  
3 permit issued under s. 30.12 (3) (a) 7. is exempt from the requirements under subs.  
4 (2) (a) and (3m) with respect to fish or fish eggs held, placed, or reared in that net pen.

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

LRB-2251/P2dn

RNK:):...

*Sac*

*- date -*

Certain of the instructions for this draft were somewhat vague. One instruction was to exempt net pens from fish farm registration. Under current law, not only must fish farms be registered but also persons who bring fish or fish eggs into the state for introduction into the waters of this state must have a permit. See s. 95.60 (2) (a), stats. I have assumed that you wanted the exemption to apply to both the registration and the permit requirements. Please let me know if my assumption is incorrect.

The instructions also indicated that the net pens should be exempt from DATCP fish health rules. Elsewhere, the instructions provided that fish placed into the net pen would have to meet DATCP health standards. These instructions seem to be contradictory. Consequently, the draft does not exempt fish that are placed in net pens from DATCP rules. Again, please let me know if this does not meet your intent.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov