



2003 SENATE BILL 413

January 28, 2004 - Introduced by Senators ROBSON, SCHULTZ, BRESKE, CHVALA, COWLES, LASSA, RISSER and ROESSLER, cosponsored by Representatives GUNDERSON, RICHARDS, ALBERS, BERCEAU, FREESE, GRONEMUS, HAHN, HEBL, HINES, KESTELL, KRAWCZYK, J. LEHMAN, M. LEHMAN, MILLER, MOLEPSKE, MUSSER, OTT, PLOUFF, POCAN, SCHNEIDER, VAN ROY and VRAKAS. Referred to Committee on Environment and Natural Resources.

1 **AN ACT to create** 29.426, 29.971 (15), 95.60 (9) and 95.99 (4) of the statutes;
2 **relating to:** regulating the release, possession, storage, transportation, sale,
3 and control of certain invasive nonnative aquatic species, granting
4 rule-making authority, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill prohibits any person from releasing, possessing, controlling, storing, selling, or transporting certain live invasive nonnative aquatic species, including alewife, Asian carp, snakeheads, and sea lampreys. The bill gives the Department of Natural Resources (DNR) authority to add other invasive nonnative aquatic species to that list by rule and the authority to allow the release, possession, control, storage, or transportation of these species for educational or scientific research or for other purposes as determined by rule. Under the bill, DNR is given authority to enter any place where aquatic species are located; to review records regarding aquatic species; to inspect places, boats, or vehicles where aquatic species are kept; and to seize and destroy invasive nonnative aquatic species.

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:

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1 **SECTION 1.** 29.426 of the statutes is created to read:

2 **29.426 Possession of certain invasive nonnative aquatic species. (1)**

3 Except as provided in sub. (4), no person may possess, control, store, offer for sale,
4 or transport any of the following live invasive nonnative aquatic species or their
5 viable eggs or offspring:

6 (a) Alewife (*Alosa pseudoharengus*).

7 (b) Asian carp, including bighead (*Hypophthalmichthys nobilis*), black
8 (*Mylopharyngodon piceus*), grass (*Ctenopharyngodon idella*), and silver carp
9 (*Hypophthalmichthys molitrix*).

10 (c) Eastern mosquitofish (*Gambusia holbrooki*).

11 (e) Ide (*Leuciscus idus*).

12 (h) Rainbow smelt (*Osmerus mordax*).

13 (i) Red shiner (*Cyprinella lutrensis*).

14 (j) Round goby (*Neogobius melanostomus*).

15 (k) Rudd (*Scardinius erythrophthalmus*).

16 (L) Ruffe (*Gymnocephalus cernuus*).

17 (m) Sea lamprey (*Petromyzon marinus*).

18 (n) Snakehead (all species of the family Channidae).

19 (o) Swamp eel (all species of the family Synbranchidae).

20 (p) Tench (*Tinca tinca*).

21 (q) Three-spine stickleback (*Gasterosteus aculeatus*).

22 (v) Tubenose goby (*Proterorhinus marmoratus*).

23 (w) Western mosquitofish (*Gambusia affinis*).

24 (x) White perch (*Morone americana*).

25 (y) Zander (*Sander lucioperca*).

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1 **(2)** No person may release any live invasive nonnative aquatic species listed
2 under sub. (1) or designated under sub. (3), or its viable eggs or offspring, into the
3 waters of the state or into the waters of a fish farm, as defined in s. 95.001 (1) (aj),
4 except as approved by the department.

5 **(3)** The department of natural resources shall, in consultation with the
6 department of agriculture, trade and consumer protection, designate by rule other
7 live invasive nonnative aquatic species that no person may possess, control, store,
8 offer for sale or transport.

9 **(4)** A person may possess, control, store, offer for sale, or transport a live
10 invasive nonnative aquatic species listed under sub. (1) or designated under sub. (3)
11 or its viable eggs or offspring that is used for educational purposes or scientific
12 research if approved by the department or for other uses as established by rule.

13 **(5)** (a) Except for fish farms registered under s. 95.60 (3m), to enforce this
14 section, a warden or a representative of the department, upon presentation of his or
15 her credentials to a person involved in the possession, control, storage, sale, or
16 transportation of an aquatic species, including a bait dealer, a person operating a
17 vehicle or boat for that person, or an employee or agent acting on behalf of that
18 person, may do all of the following:

19 1. Enter any building or structure where an aquatic species is stored,
20 processed, packed, or held, where the person's records or reports are kept, where the
21 vehicles, boats, equipment, or materials used in the person's business are located, or
22 where activities related to the person's business are conducted.

23 2. Enter any vehicle or boat used to transport or hold the aquatic species.

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1 3. Inspect any aquatic species in the possession of the person, records or reports
2 of the person, and buildings, structures, vehicles, boats, equipment, and materials
3 related to the person's business.

4 4. Take reasonable diagnostic samples of an aquatic species for biological
5 examination.

6 5. Seize and dispose of any live invasive nonnative aquatic species listed under
7 sub. (1) or designated under sub. (3), or its viable eggs or offspring.

8 (b) No person may prohibit entry, prohibit an inspection to be conducted, or fail
9 to produce all of the records or reports requested under this subsection.

10 **SECTION 2.** 29.971 (15) of the statutes is created to read:

11 29.971 **(15)** (a) For the violation of s. 29.426 (1), (3), or (5) (b), by a forfeiture
12 of not less than \$500 nor more than \$5,000.

13 (b) For the violation of s. 29.426 (2), by a forfeiture of not less than \$500 nor more
14 than \$5,000. In addition, the court may order a person who is convicted of a violation
15 under sub. (2) to restore any natural resource damaged by the violation, to pay any
16 costs related to the removal of the species, eggs, or offspring, to pay any costs
17 resulting from the violation, and to take other appropriate action or pay for any
18 action necessary to eliminate or minimize any environmental damage caused by the
19 violation.

20 **SECTION 3.** 95.60 (9) of the statutes is created to read:

21 95.60 **(9)** (a) To enforce s. 29.426, a representative of the department, upon
22 presentation of his or her credentials to a person involved in the possession, control,
23 storage, sale, or transportation of an aquatic species at a fish farm, to a person
24 operating a vehicle or boat for that person, or to an employee or agent acting on behalf
25 of that person, may do all of the following:

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1 1. Enter any building or structure of a fish farm where an aquatic species is
2 stored, processed, packed, or held, where the person’s records or reports are kept,
3 where the vehicles, boats, equipment, or materials used in the person’s business are
4 located, or where activities related to the person’s business are conducted.

5 2. Enter any vehicle or boat used to transport or hold the aquatic species.

6 3. Inspect any aquatic species in the possession of the person, records or reports
7 of the person, and buildings, structures, vehicles, boats, equipment, and materials
8 related to the person’s business.

9 4. Take reasonable diagnostic samples of an aquatic species for biological
10 examination.

11 5. Seize and dispose of any live invasive nonnative aquatic species listed under
12 s. 29.426 (1) or designated under s. 29.426 (3), or its viable eggs or offspring.

13 (b) The department of agriculture, trade and consumer protection may use a
14 warden or other representative of the department of natural resources to assist with
15 the investigation under this subsection.

16 (c) No person may prohibit entry, prohibit an inspection to be conducted, or fail
17 to produce all of the records or reports requested under this subsection.

18 **SECTION 2.** 95.99 (4) of the statutes is created to read:

19 **95.99 (4)** Any person who violates s. 95.60 (9) (c) shall forfeit not less than \$500
20 nor more than \$5,000.

21 **(END)**