



1995 SENATE BILL 159

April 26, 1995 - Introduced by Senators DRZEWIECKI, A. LASEE, SCHULTZ, ELLIS, JAUCH, C. POTTER, BRESKE, WEEDEN, ZIEN, HUELSMAN and RUDE, cosponsored by Representatives OTT, PROSSER, GOETSCH, KLUSMAN, ALBERS, ZIEGELBAUER, MUSSER, FREESE, BOYLE, SILBAUGH, AINSWORTH, POWERS, GRONEMUS, GROTHMAN, SERATTI, RYBA, SKINDRUD and OURADA. Referred to Committee on Transportation, Agriculture and Local Affairs.

1 **AN ACT to repeal** 29.092 (9) (hg), 29.093 (9) (gm), 29.58, 29.581 and 97.42 (1) (cm);
2 **to renumber** 93.07 (10) (a); **to renumber and amend** 29.583 (1); **to amend**
3 29.02 (3m), 29.03 (8), 29.05 (5), 29.05 (6), 29.05 (6m), 29.05 (8) (b), 29.06 (1),
4 29.06 (2), 29.06 (3), 29.40 (5), 29.40 (6), 29.42 (4), 29.425 (4m), 29.427 (6), 29.43
5 (5) (b), 29.44 (3), 29.45 (6), 29.48 (1m), 29.49 (1) (a) (intro.), 29.574 (1m), 29.578
6 (1m), 29.585 (2) (a), 29.59 (1) (f), 29.598 (1), 29.645, 29.99 (15), 97.42 (1) (a),
7 97.42 (3) (em), 97.42 (4) (em), 97.42 (5) (b), 895.57 (3) and 943.75 (3); and **to**
8 **create** 29.01 (2r), 29.49 (3), 29.55 (2m), 29.583 (1) (b), 29.586 (4), 93.07 (10) (af)
9 and 97.42 (1) (dm) of the statutes; **relating to:** the exemption of certain
10 farm-raised deer and the establishments that slaughter farm-raised deer from
11 regulation by the department of natural resources and the duties and authority
12 of the department of agriculture, trade and consumer protection concerning
13 domestic animals.

Analysis by the Legislative Reference Bureau

Under current law, the department of natural resources (DNR) regulates the hunting, killing and possession of deer. No distinction exists under current law between deer that are native to this state and nonnative deer, except for certain deer that are of the genus *dama* or *cervus* and that are commercially raised for slaughter. These types of deer include fallow deer, red deer and elk. These commercially raised

deer are generally exempt from DNR regulation except that a person raising such deer must have a commercial deer license issued by DNR and a person selling meat from such deer must have a venison retailer permit issued by DNR. This bill eliminates the commercial deer farm license and the venison retailer permit. The bill totally exempts fallow and red deer, along with deer of the genus rangifer, which are reindeer, from regulation by DNR regardless of whether they are raised for slaughter. Under the bill, elk that are raised for slaughter or breeding or are kept captive for other purposes are also exempt from DNR regulation. Elk that are found in the wild are considered wild animals for purposes of DNR regulation.

Under current law, the department of agriculture, trade and consumer protection (DATCP) is required to protect the health of domestic animals and is authorized to establish quarantines and other measures relating to the movement and care of animals in order to carry out this duty. This bill specifies that, for the purposes of DATCP's duty and authority related to the health of domestic animals, fallow deer, red deer, elk and reindeer are domestic animals.

Under current law, an establishment that slaughters fallow deer, red deer or elk is generally required to have a license issued by DATCP and is subject to certain other requirements. This bill applies these licensing and other requirements to an establishment that slaughters reindeer.

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:

1 **SECTION 1.** 29.01 (2r) of the statutes is created to read:

2 29.01 (2r) "Farm-raised deer" means an animal that is a member of the family
3 cervidae and of the genus dama, the genus rangifer or the genus cervus, except for
4 elk that are present in the wild.

5 **SECTION 2.** 29.02 (3m) of the statutes is amended to read:

6 29.02 (3m) This section does not permit the seizure by the department, or
7 prohibit the possession or sale, of ~~commercially raised~~ farm-raised deer, as defined
8 ~~in s. 95.25 (5m), that are kept in compliance with this chapter.~~

9 **SECTION 3.** 29.03 (8) of the statutes is amended to read:

10 29.03 (8) Any dog found running deer, except farm-raised deer, at any time,
11 or used in violation of this chapter.

1 **SECTION 4.** 29.05 (5) of the statutes is amended to read:

2 29.05 (5) OPENING PACKAGES. The department and its wardens may examine
3 and open any package in the possession of a common carrier which they have
4 probable cause to believe contains ~~contraband~~ wild animals in violation of this
5 chapter, or carcasses or parts thereof, or is falsely labeled in violation of this chapter;
6 and every such common carrier, and every agent, servant, or employe thereof, shall
7 permit any such officer to examine and open any such package. Any package so
8 opened shall be restored to its original condition.

9 **SECTION 5.** 29.05 (6) of the statutes is amended to read:

10 29.05 (6) ACCESS TO STORAGE PLACES. ~~They~~ For purposes of enforcing this
11 chapter the department and its wardens shall be permitted by the owner or occupant
12 of any cold storage warehouse or building used for the storage or retention of wild
13 animals, or carcasses or parts thereof, to enter and examine said premises subject
14 to ss. 66.122 and 66.123; and the owner or occupant, or the agent, servant, or employe
15 of the owner, shall deliver to any such officer any wild animal, or carcass or part
16 thereof, in his or her possession during the closed season therefor, whether taken
17 within or without the state.

18 **SECTION 6.** 29.05 (6m) of the statutes is amended to read:

19 29.05 (6m) ACCESS TO PRIVATE LAND. ~~Agents of~~ For purposes of enforcing this
20 chapter, the department may, after making reasonable efforts to notify the owner or
21 occupant, enter upon private lands to retrieve, diagnose or otherwise determine if
22 there are dead or diseased wild animals upon those lands, and take actions
23 reasonably necessary to prevent the spread of contagious disease in the wild animals.

24 **SECTION 7.** 29.05 (8) (b) of the statutes is amended to read:

1 29.05 (8) (b) Any perishable property seized by the department or its wardens
2 may be sold at the highest available price, and the proceeds of the sale turned into
3 court to await disposition of the proceeds as the court directs. A conservation warden
4 or other officers charged with the enforcement of the laws dealing with the
5 conservation of the natural resources of the state may kill a dog found running,
6 injuring, causing injury to, or killing any deer, other than farm-raised deer, or
7 destroying game birds, their eggs or nests, if immediate action is necessary to protect
8 the deer or game birds, their nests or eggs, from injury or death.

9 **SECTION 8.** 29.06 (1) of the statutes is amended to read:

10 29.06 (1) All ~~confiscated~~ wild animals, or carcasses or parts thereof, and all
11 ~~confiscated~~ apparatus, appliances, equipment, vehicles or devices that are
12 confiscated by the department shall, if not destroyed as authorized by law, be sold
13 at the highest price obtainable, by the department or its wardens, or by an agent on
14 commission under the written authority and supervision of the department. The net
15 proceeds of such the sales, after deducting the expense of seizure and sale and any
16 such commissions, shall be promptly remitted by the warden by whom or under
17 whose authority and supervision the sales are made, to the department; the
18 remittance to be accompanied by a complete and certified report of such the sales,
19 supported by proper vouchers covering all deductions made for expenses and
20 commissions, to be filed with the department. Of the remittance from such the sales
21 of confiscated apparatus, appliances, equipment, vehicles or devices, 18% shall be
22 paid into the conservation fund to reimburse it for expenses incurred in seizure and
23 sale, and the remaining 82% shall be paid into the common school fund. In the case
24 of the proceeds from the sale of a confiscated motor vehicle if the holder of a security
25 interest perfected by filing with such the motor vehicle as security, ~~satisfies (and the~~

1 ~~burden of proof shall be upon the holder of a security interest)~~ proves to the court,
2 or after judgment of confiscation, to the department, that the violation that led to
3 ~~sueh~~ the confiscation was not with his or her knowledge, consent or connivance or
4 with that of some person employed or trusted by the holder of a security interest,
5 there shall also be deducted the amount due under the security agreement from the
6 proceeds of ~~sueh~~ the sale and the amount due shall be paid to the one entitled; in case
7 a sufficient amount does not remain for such purpose after the other deductions then
8 the amount remaining shall be paid. The department shall make a reasonable effort
9 within 10 days after seizure to ascertain if a security interest in the seized motor
10 vehicle exists, and shall within 10 days after obtaining actual or constructive notice
11 of ~~sueh~~ any security interest give the secured party notice of the time and place when
12 there is to be any proceeding before the court or the judge pertaining to ~~sueh~~ the
13 confiscation and shall also give ~~sueh~~ the secured party at least 10 days' notice of the
14 time and place of sale. Constructive notice shall be limited to security interests
15 perfected by filing. In all such cases the time of sale of the confiscated motor vehicle
16 shall be within 20 days after judgment of confiscation provided in s. 29.05 (8). The
17 provisions of s. 973.075 (1) (b) 1. to 3. and (5) apply to vehicles other than motor
18 vehicles under this subsection. This subsection ~~shall~~ does not apply to a ~~deer killed,~~
19 ~~or so injured that it must be killed, by a collision with a motor vehicle on a highway.~~
20 ~~Such deer carcass shall be released free of charge to the motor vehicle operator under~~
21 ~~s. 29.40 (5) by the department or its agent, but shall be~~ carcass retained by the
22 department or its agent if ~~the motor vehicle operator declines to accept the carcass~~
23 under s. 29.40 (5).

24 **SECTION 9.** 29.06 (2) of the statutes is amended to read:

1 29.06 (2) On any such sales under this section of wild animals, or carcasses or
2 parts thereof, the warden or agent selling them shall issue to each purchaser a
3 certificate, on forms to be prepared and furnished by the department, covering such
4 sales. The wild animals, or carcasses or parts thereof, so purchased shall be
5 consumed or otherwise disposed of by the purchaser within a period to be set by the
6 department, but shall not be resold, bartered, or exchanged, in whole or in part, to
7 any other person, except as provided in sub. (3).

8 **SECTION 10.** 29.06 (3) of the statutes is amended to read:

9 29.06 (3) Confiscated fish or game sold under this section to the keeper,
10 manager, or steward of any restaurant, club, hotel, or boarding house may be served
11 to the guests thereof; but in such case the certificate covering the purchase shall be
12 hung in public view in the place where the fish or game is served, and such fish or
13 game shall at the time of sale be tagged by the warden or agent selling it, such tag
14 to show the date of sale and be returned to said warden or agent within 5 days
15 thereafter.

16 **SECTION 11.** 29.092 (9) (hg) of the statutes is repealed.

17 **SECTION 12.** 29.093 (9) (gm) of the statutes is repealed.

18 **SECTION 13.** 29.40 (5) of the statutes is amended to read:

19 29.40 (5) CAR KILLS. Any person who while operating a motor vehicle on a
20 highway accidentally collides with and kills a deer or so injures the deer that it must
21 be killed may retain possession of ~~such deer~~ the carcass if the ~~person~~ motor vehicle
22 operator has it tagged by any conservation warden, or by any law enforcement officer
23 designated by the department. No fee may be charged for ~~any such~~ the tag. If the
24 motor vehicle operator does not want the carcass, the carcass shall be retained by the

1 department or by an agent of the department, and the procedures governing
2 confiscated carcasses under s. 29.06 (1) do not apply.

3 **SECTION 14.** 29.40 (6) of the statutes is amended to read:

4 29.40 (6) (title) ~~COMMERCIALY RAISED~~ FARM-RAISED DEER. This section does not
5 apply to ~~commercially raised~~ farm-raised deer, ~~as defined in s. 95.25 (5m).~~

6 **SECTION 15.** 29.42 (4) of the statutes is amended to read:

7 29.42 (4) (title) ~~COMMERCIALY RAISED~~ FARM-RAISED DEER. This section does not
8 permit the seizure by the department, or prohibit the possession or sale, of
9 ~~commercially raised~~ farm-raised deer, ~~as defined in s. 95.25 (5m), that are kept in~~
10 ~~compliance with this chapter.~~

11 **SECTION 16.** 29.425 (4m) of the statutes is amended to read:

12 29.425 (4m) APPLICABILITY. This section does not apply to ~~commercially raised~~
13 farm-raised deer, ~~as defined in s. 95.25 (5m).~~

14 **SECTION 17.** 29.427 (6) of the statutes is amended to read:

15 29.427 (6) DESTRUCTION. A person may kill at any time a wild skunk which is
16 a nuisance to activities authorized under s. 29.55, 29.572, 29.574, 29.575, 29.578,
17 ~~29.58~~ or 29.585. A person who kills an adult wild skunk with young shall attempt
18 to kill the young skunks.

19 **SECTION 18.** 29.43 (5) (b) of the statutes is amended to read:

20 29.43 (5) (b) Subsections (1) to (4) do not apply to the possession,
21 transportation, delivery or receipt of ~~commercially raised~~ farm-raised deer, ~~as~~
22 ~~defined in s. 95.25 (5m).~~

23 **SECTION 19.** 29.44 (3) of the statutes is amended to read:

1 29.44 **(3)** Subsection (1) does not apply to the possession, transportation,
2 delivery or receipt of ~~commercially raised~~ farm-raised deer, as defined in s. 95.25
3 (~~5m~~).

4 **SECTION 20.** 29.45 (6) of the statutes is amended to read:

5 29.45 **(6)** This section does not apply to the transportation of ~~commercially~~
6 raised farm-raised deer, as defined in s. 95.25 (~~5m~~).

7 **SECTION 21.** 29.48 (1m) of the statutes is amended to read:

8 29.48 **(1m)** Subsection (1) does not apply to ~~commercially raised~~ farm-raised
9 deer, as defined in s. 95.25 (~~5m~~).

10 **SECTION 22.** 29.49 (1) (a) (intro.) of the statutes is amended to read:

11 29.49 **(1)** (a) (intro.) Except as provided in ss. s. 29.52 and 29.581, no innkeeper,
12 manager or steward of any restaurant, club, hotel, boarding house, tavern, logging
13 camp or mining camp may sell, barter, serve or give, or cause to be sold, bartered,
14 served or given to the guests or boarders thereof:

15 **SECTION 23.** 29.49 (3) of the statutes is created to read:

16 29.49 **(3)** EXEMPTION. This section does not apply to the meat from farm-raised
17 deer.

18 **SECTION 24.** 29.55 (2m) of the statutes is created to read:

19 29.55 **(2m)** Subsections (1) and (2) do not apply to farm-raised deer.

20 **SECTION 25.** 29.574 (1m) of the statutes is amended to read:

21 29.574 **(1m)** This section does not apply to ~~commercially raised~~ farm-raised
22 deer, as defined in s. 95.25 (~~5m~~).

23 **SECTION 26.** 29.578 (1m) of the statutes is amended to read:

1 29.578 (1m) This section does not apply to ~~commercially raised deer, as defined~~
2 ~~in s. 95.25 (5m), or to commercial deer farms licensed under s. 29.58 of the genus~~
3 ~~dama, cervus or rangifer.~~

4 **SECTION 27.** 29.58 of the statutes is repealed.

5 **SECTION 28.** 29.581 of the statutes is repealed.

6 **SECTION 29.** 29.583 (1) of the statutes is renumbered 29.583 (1) (intro.) and
7 amended to read:

8 29.583 (1) (intro.) The department may seize and dispose of or may authorize
9 the disposal of any of the following:

10 (a) A deer that has escaped from land licensed under s. 29.574, or 29.578 ~~or~~
11 ~~29.58~~ if the licensee has not had the deer returned to the land within 72 hours of the
12 discovery of the escape.

13 **SECTION 30.** 29.583 (1) (b) of the statutes is created to read:

14 29.583 (1) (b) A farm-raised deer that has escaped from land upon which it is
15 being raised if the owner of the farm-raised deer has not had it returned to the land
16 within 72 hours of the discovery of the escape.

17 **SECTION 31.** 29.585 (2) (a) of the statutes is amended to read:

18 29.585 (2) (a) The term In this section, “wild animal” ~~as used in this section~~
19 means any mammal, fish or bird of a wild nature as distinguished from domestic
20 animals under the common law or under the Wisconsin statutes whether or not the
21 mammal, fish or bird was bred or reared in captivity, but does not include deer of the
22 genus dama, cervus or rangifer.

23 **SECTION 32.** 29.586 (4) of the statutes is created to read:

24 29.586 (4) This section does not apply to farm-raised deer.

25 **SECTION 33.** 29.59 (1) (f) of the statutes is amended to read:

1 29.59 (1) (f) Notwithstanding s. 29.01 (14), “wild animal” means any
2 undomesticated mammal or bird, but does not include farm-raised deer.

3 **SECTION 34.** 29.598 (1) of the statutes is amended to read:

4 29.598 (1) DEFINITION. ~~As used in~~ In this section, “wildlife damage” means
5 damage caused by wild deer that live in the wild, bear or geese to commercial
6 seedings or crops on agricultural land, to orchard trees or nursery stock or to apiaries
7 or livestock.

8 **SECTION 35.** 29.645 of the statutes is amended to read:

9 **29.645 Larceny of game.** A person who, without permission of the owner,
10 molests, disturbs or appropriates any wild animal or its carcass that has been
11 lawfully reduced to possession by another shall forfeit not less than \$1,000 nor more
12 than \$2,000. This section does not apply to farm-raised deer.

13 **SECTION 36.** 29.99 (15) of the statutes is amended to read:

14 29.99 (15) In any prosecution under this section it is not necessary for the state
15 to allege or prove that the animals were not ~~commercially raised~~ farm-raised deer
16 or domesticated animals; that they were not taken for scientific purposes, or that
17 they were taken or in possession or under control without a required approval. The
18 person claiming that these animals were ~~commercially raised~~ farm-raised deer or
19 domesticated animals, that they were taken for scientific purposes or that they were
20 taken or in possession or under control under the required approval, has the burden
21 of proving these facts. ~~In this subsection, “commercially raised deer” has the~~
22 ~~meaning given in s. 95.25 (5m).~~

23 **SECTION 37.** 93.07 (10) (a) of the statutes is renumbered 93.07 (10) (am).

24 **SECTION 38.** 93.07 (10) (af) of the statutes is created to read:

1 93.07 (10) (af) In this subsection, “domestic animals” includes farm-raised
2 deer, as defined in s. 29.01 (2r).

3 **SECTION 39.** 97.42 (1) (a) of the statutes is amended to read:

4 97.42 (1) (a) “Animal” means cattle, sheep, swine, goats, ~~commercially raised~~
5 farm-raised deer, horses, mules, and other equines.

6 **SECTION 40.** 97.42 (1) (cm) of the statutes is repealed.

7 **SECTION 41.** 97.42 (1) (dm) of the statutes is created to read:

8 97.42 (1) (dm) “Farm-raised deer” has the meaning given in s. 29.01 (2r).

9 **SECTION 42.** 97.42 (3) (em) of the statutes is amended to read:

10 97.42 (3) (em) (title) *Slaughter of ~~commercially raised~~ farm-raised deer.* The
11 requirements of pars. (a) and (b) do not apply to the slaughter of a ~~commercially~~
12 raised farm-raised deer if its meat food products are not sold by a person holding a
13 restaurant permit under s. 254.64 or by an operator of a retail food establishment,
14 as defined under s. 97.30 (1) (c). The operator of an establishment in which
15 ~~commercially raised~~ farm-raised deer, their carcasses or their meat food products
16 are examined and inspected under this subsection shall pay the department for the
17 cost of the department’s examination and inspection.

18 **SECTION 43.** 97.42 (4) (em) of the statutes is amended to read:

19 97.42 (4) (em) The rate at which an operator of an establishment that
20 slaughters ~~commercially raised~~ farm-raised deer or processes the meat products of
21 ~~commercially raised~~ farm-raised deer shall pay the costs of examination and
22 inspection under sub. (3) (em) and the manner in which the department shall collect
23 those amounts.

24 **SECTION 44.** 97.42 (5) (b) of the statutes is amended to read:

1 97.42 (5) (b) No county or municipality may collect any fees or charges for meat
2 or poultry inspection or enforcement from any licensee under this section, except for
3 overtime inspection work and the inspection of ~~commercially raised~~ farm-raised
4 deer. Charges for overtime or for the inspection of ~~commercially raised~~ farm-raised
5 deer shall be on the same basis as and shall not exceed charges for overtime work or
6 for the inspection of ~~commercially raised~~ farm-raised deer prescribed by this section
7 or by the rules of the department.

8 **SECTION 45.** 895.57 (3) of the statutes is amended to read:

9 895.57 (3) Subsection (2) does not apply to any humane officer, local health
10 officer, peace officer, employe of the department of natural resources while on any
11 land licensed under s. 29.52, 29.573, 29.574, 29.575, or 29.578 ~~or 29.58~~ or designated
12 as a wildlife refuge under s. 29.57 (1) or employe of the department of agriculture,
13 trade and consumer protection if the officer’s or employe’s acts are in good faith and
14 in an apparently authorized and reasonable fulfillment of his or her duties.

15 **SECTION 46.** 943.75 (3) of the statutes is amended to read:

16 943.75 (3) Subsection (2) does not apply to any humane officer, local health
17 officer, peace officer, employe of the department of natural resources while on any
18 land licensed under s. 29.52, 29.573, 29.574, 29.575, or 29.578 ~~or 29.58~~ or designated
19 as a wildlife refuge under s. 29.57 (1) or employe of the department of agriculture,
20 trade and consumer protection if the officer’s or employe’s acts are in good faith and
21 in an apparently authorized and reasonable fulfillment of his or her duties. This
22 subsection does not limit any other person from claiming the defense of privilege
23 under s. 939.45 (3).

24 **(END)**