



2023 SENATE BILL 316

May 31, 2023 - Introduced by Senators FEYEN, COWLES, FELZKOWSKI, JACQUE, NASS, STROEBEL and TOMCZYK, cosponsored by Representatives DALLMAN, SCHRAA, BROOKS, MURPHY, MURSAU, ROZAR, SAPIK, SPIROS, SWEARINGEN, TUSLER and TITTL. Referred to Committee on Natural Resources and Energy.

1 **AN ACT to amend** 23.24 (2) (a) 1., 23.24 (2) (a) 2., 23.24 (2) (c) 7., 23.24 (3) (b) and
2 23.24 (3) (c); and **to create** 23.24 (1) (je), 23.24 (4) (b) 5. and 23.24 (4) (b) 6. of
3 the statutes; **relating to:** aquatic plant management plans and permit
4 exemptions.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes relating to the control of aquatic plants using chemicals or biological agents.

Current law requires the Department of Natural Resources to establish a program for the waters of this state that meets several goals, including implementing efforts to protect and develop native aquatic plants and regulate how aquatic plants are managed. The bill requires that DNR efforts to protect native aquatic plants rely on widely accepted methods supported by peer-reviewed science to suppress or eradicate invasive or nuisance aquatic plants. The bill also requires that DNR plans to regulate aquatic plants ensure invasive and nuisance aquatic plants are suppressed or eradicated to the greatest extent possible.

Under current law, subject to exceptions, a person may not control aquatic plants in waters of the state by the use of chemicals or the introduction of biological agents without a valid aquatic plant management permit issued by DNR. As a condition of receiving an aquatic plant management permit, DNR may require the applicant to submit a plan for how aquatic plants will be introduced, removed, or controlled. The bill provides that DNR must give equal consideration to plans that will suppress or eradicate invasive or nuisance aquatic plants by use of chemicals

SENATE BILL 316

and provides that the plan requirements may not impose an undue financial burden on permit applicants or property owners.

The bill also creates exemptions from the permit requirement for the introduction of chemicals or biological agents to a private pond, which the bill defines as “a surface water less than 10 acres in size that is surrounded by the private property of one or more owners, with no public access to the water, and that has either no surface water discharge or surface water discharge that can be controlled.” Under the bill, a person who applies a chemical treatment to a private pond to suppress or eradicate invasive or nuisance aquatic plants is exempt if the person is certified as a commercial applicator by the Department of Agriculture, Trade and Consumer Protection in the aquatic and mosquito pest control category, follows U.S. Environmental Protection Agency standards for chemical type and use, and meets notification and record-keeping requirements. The bill also exempts a person who applies to a private pond a biological agent to improve water quality at a concentration that does not cause acute or chronic toxicity for aquatic organisms or a dye that is not labeled for herbicide use.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 23.24 (1) (je) of the statutes is created to read:

2 23.24 (1) (je) “Private pond” means a surface water less than 10 acres in size
3 that is surrounded by the private property of one or more owners, with no public
4 access to the water, and that has either no surface water discharge or surface water
5 discharge that can be controlled.

6 **SECTION 2.** 23.24 (2) (a) 1. of the statutes is amended to read:

7 23.24 (2) (a) 1. Implement efforts to protect and develop diverse and stable
8 communities of native aquatic plants using widely accepted methods that are
9 supported by peer-reviewed science to suppress or eradicate invasive or nuisance
10 aquatic plants.

11 **SECTION 3.** 23.24 (2) (a) 2. of the statutes is amended to read:

SENATE BILL 316

1 23.24 (2) (a) 2. Regulate how aquatic plants are managed to ensure invasive
2 or nuisance aquatic plants are suppressed or eradicated to the greatest extent
3 possible.

4 **SECTION 4.** 23.24 (2) (c) 7. of the statutes is amended to read:

5 23.24 (2) (c) 7. The requirements for plans that the department may require
6 under sub. (3) (b). Plan requirements may not impose an undue financial burden on
7 permit applicants or property owners.

8 **SECTION 5.** 23.24 (3) (b) of the statutes is amended to read:

9 23.24 (3) (b) The department may require that an application for an aquatic
10 plant management permit contain a plan for the department's approval as to how the
11 aquatic plants will be introduced, removed, or controlled. The department shall give
12 equal consideration to plans that will suppress or eradicate invasive or nuisance
13 aquatic plants by use of chemicals that have been labeled and registered for aquatic
14 plant control by the U.S. environmental protection agency.

15 **SECTION 6.** 23.24 (3) (c) of the statutes is amended to read:

16 23.24 (3) (c) The department may promulgate a rule to establish fees for
17 aquatic plant management permits. Under the rule, the department may establish
18 a different fee for an aquatic plant management permit to manage aquatic plants
19 that are located in a body of water that is entirely confined on the property of ~~one~~
20 private property owner owners.

21 **SECTION 7.** 23.24 (4) (b) 5. of the statutes is created to read:

22 23.24 (4) (b) 5. A person who applies a chemical treatment to a private pond
23 to suppress or eradicate invasive or nuisance aquatic plants if all of the following
24 apply:

SENATE BILL 316**SECTION 7**

1 a. The person is certified as a commercial applicator by the department of
2 agriculture, trade and consumer protection in the aquatic and mosquito pest control
3 category.

4 b. The person uses only those chemicals that have been labeled and registered
5 for aquatic plant control by the U.S. environmental protection agency.

6 c. The person follows U.S. environmental protection agency label directions for
7 appropriate application methods and rates.

8 d. If the private pond abuts multiple parcels, the owners of all parcels that abut
9 the private pond have been notified of the application of the chemical treatment to
10 the private pond.

11 e. The person retains for a period of not less than 2 years a record of any
12 pesticide the person applies to the private pond. All records retained under this subd.
13 5. e. shall be made available to the department for inspection upon request.

14 **SECTION 8.** 23.24 (4) (b) 6. of the statutes is created to read:

15 23.24 (4) (b) 6. A person who applies to a private pond a biological agent to
16 improve water quality at a concentration that does not cause acute or chronic toxicity
17 for aquatic organisms or a dye that is not labeled for herbicide use.

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(END)