

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0538/1dn
MGG:kg:km

October 7, 1999

1. In LRB-0538/P4, there is a conflict between language found in s. 22.06 (1) (c), which prohibits DNR from authorizing the introduction or importation of an environmentally injurious wild animal, and language found in s. 22.11 (2) (c), which bans the introduction or importation of such animals unless authorized by DNR. The language in s. 22.11 (2) (c) was not in the original bill but was added by the assembly during the last legislative session. In order to resolve this conflict, I have deleted the conflicting language in s. 22.06 (1) (c) and have added a cross-reference to s. 22.06 (1) (c) in s. 22.11 (2) (c). Please review carefully and let me know if you want any changes.

2. I have changed this draft so that only conservation wardens have law enforcement authority as to ch. 22. However, most of the changes in ch. 173 need to be left in because these are the provisions that grant captive wildlife owners due process as required under the state and federal constitutions. These animals are considered property of the captive wildlife owners, and these owners cannot be deprived of this property without "due process of law".

3. I changed that language ss. 22.42 (1) (k) and 173.22 (3) (g) to cross-reference s. 22.39 because I thought this was more precise and consistent language. Please let me know if you have any questions concerning this.

4. I made changes in the language dealing with regular fees, late fees and renewals of validation licenses to make the distinctions clearer and to use consistent language. I deleted s. 22.29 (7) and inserted s. 22.31 (1) (o) in its stead to make the format consistent with s. 22.31 (1) (j). I also changed the word "not" to "never" in s. 22.29 (6) (c) and (d). I moved the language found in s. 22.33 (3) (c) to s. 22.31 (2) (b). If you do not agree with these changes, please call me to discuss this.

5. In s. 22.29 (1) (b) 3. I changed the word "modified" to "promulgated" to cover the situation where rules are not promulgated for a while after the licenses are required. For example, a person could be complying with all of the statutory requirements under the licenses and then rules are promulgated that result in a prohibition of one of the activities that the license holder was engaged in.

6. I rewrote the exceptions under s. 951.09 (3) so that they do not conflict with the provisions under ss. 22.09 (2) and 22.39 (5). I also deleted the exception under s. 951.09 (3) (a). This exception could be interpreted to mean that s. 951.09 does not prohibit a person from capturing a wild animal, tying it up or otherwise confining it and then shooting it. While I think this exception was included to try to rewrite the first part

of the last sentence in current s. 951.09 (“Nothing in this section prohibits the shooting of any wild game in its wild state....”), it has a different effect. Section 951.09 on its face does not apply to regular hunting “in the wild”, and therefore I do not think any exception or reconciliation of these 2 concepts is necessary. If you disagree, please call me to discuss this.

7. The analysis needed to be substantially rewritten due to the differences between the original and the engrossed bill. Please review carefully.

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