

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0538/P3dn
MGG:kg:jf

March 4, 1999

1. The use of "local official" in s. 22.05 (1m) is quite vague. Do you want to define this term or use more specific language?

2. Assembly Amendment 8 to last session's bill deleted s. 22.08, which required that a person have a rehabilitation license to rehabilitate wild animals. However, the amendment did not delete s. 22.24, which establishes the rehabilitation license. Because of this, we have the anomaly that DNR issues licenses for which there is no real need. Persons without rehabilitation licenses will be able to rehabilitate wild animals without following s. 22.36 (3) or the DNR rules while those with licenses will have to follow s. 22.36 (3) and the rules. I have therefore added back s. 22.08 (1) and (3) in this draft, now numbered as s. 22.085 (1) and (2). OK?

3. Per DNR Attorney Mike Lutz's instructions, I have taken the last sentence in s. 22.24 (2) out of the engrossed bill because that reference is out of date. Do you want to put back in any of the language in s. 22.24 (2) that is found in the original bill but that was deleted in the engrossed bill?

4. I added the requirement that a person applying for a dog club training license must file a proper application and pay the applicable fee. I did this for consistency with other provisions in the draft. Also note that there is a dog club training license application fee under s. 22.31 (1) (f) 3.

5. I rewrote s. 22.38 (1) (b). Please review s. 22.38 (1) (b) and (2) in this draft.

6. I know that the language contained in s. 22.43 in the engrossed bill was probably necessary to gain support for the bill, but it causes problems. Under the language, a local unit of government may enact an ordinance that is directly in conflict with state law. Then the question arises as to which law prevails. Under the home rule doctrine, the state law would prevail only if the subject of the ordinance is of statewide importance. If it is considered a "local issue", the ordinance would prevail. To avoid such disputes and possible litigation, I have changed the language to only allow the local units of government to enact ordinances that are stricter than the state law. I know this may not comply with your intent, but this issue needs to be resolved in a manner that is different from the language found in the engrossed bill. Please call me to discuss this if you are not satisfied with what I have drafted.

7. Please review s. 29.506 (4) to ensure that it complies with your intent, i.e., the permit supersedes any restrictions under the rest of ch. 29 and under ch. 22. OK?

8. Since there is no longer a Class A deer farm license, I assume that nonnative deer that are not farm-raised deer come under the captive wild animal farm license. I, therefore, have put a cross-reference to s. 22.15 in s. 29.875 (1). OK?

9. There were some changes in ch. 951, which is entitled Crimes Against Animals, last session which require some thought and review by DNR. Note the creation of s. 951.015 (2) in this draft. Also, s. 951.15 was repealed last session except for the first subsection. Provisions similar to the repealed provisions were created in ss. 173.13, 173.22 and 173.23 (1m) and (4). I reviewed these and feel that what remains of s. 951.15 and these new provisions are somewhat covered in ss. 22.39 and 22.42 of the bill, which deal with humane treatment and care and disposal of wild animals. However, I do not think that this draft adequately deals with some of the due process safeguards that are contained in these provisions in ch. 173.

I also exempted wild animals that are subject to regulation under ch. 22 from ch. 173. I would like to discuss all of this with Mike Lutz. Please provide him with a copy of this draft and ask that he call me.

10. I backed up the effective date and all of the other dates in the draft 2 years. Please review.

11. I rewrote s. 22.38 (4) (b). Please review.

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