

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB(LRBx0538/4))

Received: **01/28/2000**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **DuWayne Johnsrud (608) 266-3534**

By/Representing: **Mark Patronsky**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact: **Sarah Shapiro-Hurley .**

Alt. Drafters:

Subject: **Nat. Res. - fish and game**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Falconry, mink raising, enforcement and other changes

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reaured</u>
/1	gibsom 01/29/2000	wjackson 01/31/2000	haugeca 01131/2000	_____	lrb-docadmin 01/31/2000	lrb-docadmin 01/31/2000	
	gibsom 02/01/2000	chanaman 02/01/2000		_____			
/2			martykr 02/01/2000	_____	lrb_docadmin 02101/2000	lrb-docadmin 02101/2000	

FE Sent For:

<END>

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1/?	gibsom		CH 1-31	GH HH 1-31			

FE Sent For:

<END>



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

DATE: January 28, 2000
TO: REPRESENTATIVE DU WAYNE JOHNSRUD
FROM: Mark C. Patronsky, Senior Staff Attorney
SUBJECT: Instructions for a Simple Amendment to the Captive Animal Draft Legislation

This memorandum contains a summary of drafting instructions for a simple amendment to LRB-0538/4, an un-introduced bill regarding captive animals. These instructions are the result of a number of meetings held during the past week. Please review this memorandum carefully. If the drafting instructions reflect your intent as the author of the bill, you should submit these drafting instructions to the Legislative Reference Bureau for drafting.

1. Page 22, line 24 to page 23, line 22 and related provisions: make changes as shown in the attached pages from the draft.
2. Page 25, lines 17 and 18: delete the material from "contains" to "label."
3. Page 29, lines 5 to 7 and other similar provisions in the draft: delete all rule-making provisions that duplicate generic rule-making authority in s. 227.11, Stats. However, retain rule-making authority as necessary to mandate rules, or limit Department of Natural Resources (DNR) rule-making.
4. Page 29, line 9 and other similar provisions in the draft: delete "qualified."
5. Page 30, lines 9 to 11: delete the sentence beginning with "If" and ending with the period on line 11.
6. Page 37, line 10 to page 38, line 10 (and other provisions, as necessary): delete all the material regarding falconry.
7. Page 39, line 4: add a provision that the DNR may by rule exempt the holder of a rehabilitation license from any statutory requirements of ch. 22, Stats.
8. Page 49, line 2: substitute "may" for "shall."

just (2) on p. 60

check for other places
[]
[]
[]

9. Page 60, lines 6 and 7 (and other related references, such as page 60, line 12): delete the reference to the Department of Agriculture, Trade and Consumer Protection (DATCP).

10. Page 64, line 2: delete the references to DATCP. Also, delete the phrase "issuing the quarantined order" as it appears on pages 64 and 65.

DN []

11. Page 64, lines 9 and 10: delete the requirement for service on the person controlling the premises. *responsible for person who take care of animals on premises to be quarantined*

[]

12. Page 66, lines 15 and 16: delete the reference to ch. 173, Stats. Substitute appropriate references to ss. 29.931, 29.934 and 968.20, Stats., as DNR authority for seizure of animals. Delete other references to ch. 173 that appear in ch. 22 and are rendered superfluous by this change. For example, it may be appropriate to retain page 66 line 1. ?

DN []

13. Page 82, line ~~10~~¹¹: instead of repealing s. 29.8% Stats., retain it, although it will have to be renumbered to an appropriate location in ch. 29, such as the miscellaneous provisions.

[]

14. Page 86, line 21: add authorization for the DATCP to enter any premises subject to a license under ch. 22, Stats., and to take any actions necessary to address animal health issues. The primary mission of DATCP relates to domestic animals. Therefore, one way to draft this provision would be to add a cross-reference to ch. 22 in the latter part of s. 93.07 (10) (b), Stats., in the material after "for these purposes."

[]

15. Page 87, line 3 to page 100, line 19: delete all the amendments to ch. 173, Stats.

MCP:wu:jal

Attachment

Sara Shapiro
Sunday H: 873-8824

DN re 29.931(1)
29.936(1)

D Note
re: p. 48

No lang saying 173. does not apply

BILL

SECTION 3

1 (b) The selling and purchasing of native wild reptiles and native wild
2 amphibians is subject to s. 22.12 and not to this section.

3 (c) The sale of ~~white-tailed~~ deer to be processed for venison meat or products
4 is subject to s. 22.13 and not to this section.

5 22.11 **Inherently dangerous and environmentally injurious wild**
6 **animals. (1) INHERENTLY DANGEROUS WILD ANIMALS (a) The department shall**
7 designate by rule cougars and members of the family ursidae as inherently
8 dangerous wild animals and may designate by rule other types of wild animals to be
9 inherently dangerous wild animals.

10 (2) ENVIRONMENTALLY INJURIOUS WILD ANIMALS (a) The department may
11 designate by rule the species of wild animals that are environmentally injurious wild
12 animals.

13 (b) No person may possess, take, propagate, sell, purchase; transfer, exhibit or
14 rehabilitate a live environmentally injurious wild animal unless specifically
15 authorized to do so by the department.

16 (c) No person may introduce, stock or release, or import into this state to
17 introduce, stock or release, any environmentally injurious wild animal unless
18 specifically authorized to do so by the department under s. 22.06 (1) (c).

19 (3) EXEMPTIONS. (a) Public zoos and aquariums are exempt from the
20 prohibition under sub. (2) (b).

21 (b) 1. Veterinarians are exempt from the prohibition under sub. (2) (b) for the
22 purpose of providing medical treatment to environmentally injurious wild animals.

23 2. For purposes of subd. 1., "medical treatment" does not include rehabilitation.

24 **22.12 Possession and sale of native wild reptiles and wild amphibians.**

25 (1) POSSESSION OF MORE THAN 5 PROHIBITED. No person may take from the wild or

BILL 4

1 possess live native wild reptiles or live native wild amphibians ^{unless} unless the person ^{except as} authorized by the department by rule ^{Sub}
2 ~~takes or possesses 5 or fewer of any subspecies or unless sub (2) or (3) applies.~~

3 **(2) POSSESSION OF MORE THAN 5 ALLOWED.** (a) 1. A person may take from the wild
4 or possess more than 5 leopard frogs, 5 mud puppies or 5 tiger salamanders if so
5 authorized by the department under a Class A captive wild animal farm license.

6 2. A person may possess more than 5 bullfrogs if all of the bullfrogs are taken
7 or reared outside the state and if the Person is so authorized by the department under
8 a Class A captive wild animal farm license.

9 (b) An authorization under par. (a) 1. for a type of wild amphibian may be
10 subject to a quota established by rule by the department that protects from excessive
11 taking of the population of that wild amphibian from the wild.

12 (c) 1. For any type of native wild reptile or native wild amphibian, other than
13 a wild amphibian subject to par. (a), a person may take from the wild or possess more
14 than 5 of that type of wild reptile or wild amphibian if permission has been granted
15 to the person by the department.

16 2. A request for permission under subd. 1. shall be in writing and shall include:
17 the name of the species, the number of wild reptiles or wild amphibians, the location
18 of the proposed taking and the reason for the proposed possession.

19 3. The natural resources board shall create a council under s. 15.04 (1) (c) to
20 review requests for permission under subd. 1. The council shall make
21 recommendations to the department to assist the department in deciding whether
22 it will grant the permission.

23 **(3) POSSESSION OF NATIVE FROGS.** A person using native frogs for bait while
24 fishing may take from the wild, possess and kill more than 5 native frogs, but may
25 not possess more than 5 of any subspecies of native frog for more than 24 hours.

BILL

1 (4) **RESTRICTIONS OF SALES.** No person may sell live native wild reptiles or live
2 native wild amphibians except for the following:

3 (a) Color variants of these wild reptiles and wild amphibians that have been
4 bred in **captivity** and have coloration that is clearly distinct' from the normal
5 morphological color patterns.

6 (b) Leopard **frogs**, mud puppies and tiger salamanders that are sold under the
7 authorization of a Class **A** captive wild animal **farm** license.

8 (c) *Native 4 amphibians and reptiles* **Bullfrogs** that are *legally* taken or reared outside this state and that are sold under
9 the **authorization of** a Class **A** captive **wild** animal farm **license**. *to educational institution*

10 (5) **EXEMPTION FOR CERTAIN INSTITUTIONS.** Any of the following is exempt from
11 the requirements under this section:

12 (a) **Public zoos** or aquariums.

13 (b) **Circuses** and the Circus World Museum located in **Baraboo**, Wisconsin.

14 (c) The department.

15 (6) **EXEMPTION FOR VETERINARIANS.** (a) Veterinarians are exempt from subs. (1)
16 and (2) for the purpose of providing medical **treatment** to native wild reptiles and
17 **native** wild **amphibians**.

18 (b) For purposes of par. (a), "medical treatment" does not include rehabilitation.

19 (7) **INAPPLICABILITY TO CERTAIN WILD ANIMALS.** This section does not authorize
20 the possessing, taking or selling of reptiles or amphibians that are environmentally
21 injurious wild animals.

22 **22.18 Sale and purchase of white-tailed deer for venison. (1)**
23 **REQUIREMENTS FOR LIVE DEER** (a) No person may sell a live **white-tailed** deer to be
24 processed for venison meat or products except as **authorized under a deer farm**

BILL

1 (b) Subsection (1) (a) and (b) does not apply to white-tailed deer that is to be
2 processed into venison.

3 (c) The selling, purchasing or possessing of carcasses of endangered or
4 threatened species is subject to s. 29.604 and not to this section.

6 **22.15 Captive wild animal farm licenses. (1) ISSUANCE. (a) The**
6 **department shall issue a Class A captive wild animal farm license to operate a**
7 **captive wild animal farm that grosses \$10,000 or more in annual sales to any**
8 **qualified person who files a proper application for the license and who pays the**
9 **applicable fee.**

10 (b) The department shall issue a Class B captive wild animal farm license to
11 operate a captive wild animal farm that grosses less than \$10,000 in annual sales to
12 any qualified person who files a proper application for the license and who pays the
13 applicable fee.

14 (c) The department shall issue a Class A captive wild animal farm license to
15 any qualified person who files a proper application for the license and who pays the
16 applicable fee to *possess live native reptiles and live native*
16 ~~operate a captive wild animal farm that contains more than 5 of any~~
17 ~~of the following:~~
amphibians

- 18 1. Leopard frogs.
- 19 2. Mud puppies.
- 20 3. Tiger salamanders.
- 21 4. Bullfrogs that are taken or reared outside this state.

22 (d) The applicant shall specify the location of the enclosures for the wild
23 animals on the application.

Gibson-Glass, Mary

From: Lutz, Michael
Sent: Friday, January 28, 2004 4:27 PM
To: Hurley, Sarah S; Gibson-Glass, Mary
Subject: Patronsky's drafting instructions for the captive wildlife bill

RE: instruction number 11 dealing with who a quarantine order is to be served on-Sarah you asked if Mark's deletion of the person controlling the premises was ok, leaving only the requirement that we serve the person possessing the animals. It's ok.

Mary, the Natural Resources Board just approved our rules protecting reptiles and amphibians.. thanks for the help.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1237/1
MGG:l.....
WLj

NOON on Mon.

PRELIMINARY **DRAFT - NOT READY FOR INTRODUCTION**

ASSEMBLY AMENDMENT,

TO 1999 ASSEMBLY BILL (LRB-0538/4)

↓ #. Page 10, line ²¹ 19: delete that line and substitute:
⑥ "19) "Law enforcement officer" ~~means~~ has the meaning given in s. 165.85(2)(c) and does not include a conservation warden.

1 At the locations indicated, amend the bill as follows:

2 ↓ # Page

3 ↓ 1. Page 16, line 5: delete "a falconry license,".

4 ↓ 2. Page 16, line 6: after "license" insert "or under s. 29.319".

5 ↓ 3. Page 17, line 1: delete "a falconry license,".

6 ↓ 4. Page 17, line 2 after "research license" insert "or under s. 29.319".

7 ↓ 5. Page 18, line 23: delete "a falconry license,".

8 ↓ 6. Page 18, line 25: after "license" insert "or under s. 29.319".

9 ↓ 7. Page 19, line 2: delete "a falconry license".

10 ↓ 8. Page 19, line 3: after "license" insert "or under s. 29.319".

↓ # Page 19, line 19: substitute "or a scientific" for "scientific"
9. Page 19, line 19: substitute "under s. 29.319" for "a falconry license".

Page 24, line 1: after "sell" insert "or purchase"

1 **10.** Page 20, line 20: delete the material beginning with "market" and ending
2 with "falconry" on page 20, line 21 and substitute "market".

3 **11.** Page 20, line 21: after "exhibiting license" insert "or under s. 29.319".

4 **12.** Page 21, line 6: delete "a falconry license,".

5 **13.** Page 21, line 7: after "stocking license" insert "or under s. 29.319".

6 *# Page 22 line 24: substitute "Sale" for "possession, and sale"*

14. Page 22, line 25: substitute "; GENERAL" for "MORE THAN 5 PROHIBITED".

7 **15.** Page 23, line 2: delete that line and substitute "unless the person" is
8 authorized to do so under rules promulgated by the department or unless sub. (3)

9 applies." *# Page 24, line 1: substitute "ON SALES AND PURCHASES" for "OF SALES"*

10 INSERT 2-10

16. Page 23, line 3: delete lines 3 to 22.

11 **17.** Page 24, line 8: delete that line and substitute: (c) Native reptiles or
12 amphibians that are legally ^{taken} or reared outside this state and that are ^{sold} sent to
13 educational institutions under".

Page 24, line 15: substitute "subo" for "subs."

14 **18.** Page 25, line 17: delete the material beginning with "contains" and ending
15 with "label" on page 25, line 18.

16 **19.** Page 27, line 8: delete "qualified".

17 **20.** Page 27, line 12: delete "qualified".

18 *# Page 27, line 14: delete lines 14 to 21*

21. Page 27, line 15: delete "qualified".

19 **22.** Page 29, line 5: delete lines 5 to 7.

20 **23.** Page 29, line 9: delete "qualified".

21 **24.** Page 30, line 9: delete the material beginning with "If" and ending with
22 "deer" on page 30, line 11.

Page 24, line 2: delete that line and substitute "unless the person is authorized to do so under rules promulgated by the department."

- 1 ↓ **25.** Page 30, line 13: delete lines 13 to 15.
- 2 ↓ **26.** Page 30, line 17: delete “qualified”.
- 3 ↓ **27.** Page 30, line 22: delete lines 22 to 24.
- 4 ↓ **28.** Page 31, ~~and~~ delete “qualified”.
- 5 ↓ **29.** Page 32, line 7: delete lines 7 to 8.
- 6 ↓ **30.** Page 32, line 10: delete “qualified”.
- 7 ↓ **31.** Page 34, line 18: delete lines 18 to 20.
- 8 ↓ **32.** Page 34, line 22: delete “qualified”.
- 9 ↓ **33.** Page 35, line 15: delete “qualified”.
- 10 ↓ **34.** Page 36, line 7: delete lines 7 to 10.
- 11 ↓ **35.** Page 36, line 17: delete “qualified”.
- 12 ~~**36.** Page 37, line 6: delete lines 6 to 9.~~
- 13 ↓ **37.** Page 37, line ~~10~~⁶: delete the material beginning with that line and ending
- 14 with page 38, line 10.
- 15 ↓ **38.** Page 38, line 13: delete “qualified”.
- 16 ↓ **39.** Page 38, line 17: delete lines 17 to 20.
- 17 ↓ **40.** Page 38, line 22: delete “qualified”.
- 18 ↓ **41.** Page 39, line 1: delete lines 1 to 4 and substitute:
- 19 “(2) **QUALIFICATIONS ; RULES.** The department shall promulgate rules to
- 20 establish the qualifications that are required to obtain a rehabilitation license. The
- 21 department may promulgate rules to establish standards for exempting an
- 22 individual from any of these ²required qualifications.”.

- 1 ↓ 42. Page 39, line 6: delete "qualified".
- 2 ↓ **43.** Page 40, line 12: delete lines 12 to 13.
- 3 ↓ **44.** Page 41, line 8: delete lines 8 to 9.
- 4 ↓ **45.** Page 41, line 11: delete "qualified".
- 5 ↓ 46. Page 42, line 1: delete lines 1 to 3.
- 6 ↓ **47.** Page 42, line 4 : delete "qualified".
- 7 ↓ 48. Page 43, line 1: delete lines 1 to 3.
- 8 ↓ **49.** Page 47, line 16: delete lines 16 to 20.
- 9 ↓ **50.** Page 48, line 14: substitute "or s. 29.871" for ", s. 29.871".
- 10 ↓ **51.** Page 48, line 14: delete "or s. 29.873, 1997".
- 11 ↓ **52.** Page 48, line 15: delete "stats."[^]
- 12 ↓ **53.** Page 49, line 2: substitute "may" for "shall".
- 13 ↓ **54.** Page 50, line 1: delete lines 1 to 5.
- 14 ↓ **55.** Page 53, line 18: delete that line.
- 15 ↓ 56. Page 54, line 9: delete "FALCONRY".
- 16 ↓ **57.** Page 54, line 10: delete "LICENSES,".
- 17 ↓ 58. Page 54, line 12: delete the material beginning with "preserve" and ending
- 18 with "falconry" on page 54, line 13, and substitute "preserve".
- 19 ↓ **59.** Page 55, line 7: delete lines 7 to 10.
- 20 ↓ 60. Page 57, line 15: delete lines 15 to 17.

1 ↓ 61. Page 60, line 6: delete the material beginning with “or” and ending with
 2 “protection” on ⁹page 60, line 7.

3 ↓ 62. Page 60, line 12: delete “requiring the certificate”.

4 ↓ 63. Page 64, line 2: delete “or the department of agriculture, trade and
 5 consumer protection”.

6 ↓ 64. Page 64, line 9: delete the material beginning with “and” and ending with
 7 “premises” on ⁹page 64, line 10.

8 ↓ 65. Page 64, line 10: delete the material beginning with “issuing” and ending
 9 with “quarantine order” on ⁹page 64, line 11.

10 ↓ 66. Page 65, line 3: delete “issuing the order”.

11 ↓ 67. Page 65, line 6: delete “issuing the order”.

12 ↓ 68. Page 66, line 15: delete lines 15 to 16 and substitute:

13 “(b) A conservation warden and the department shall comply with the
 14 applicable procedures under ss. [↓]29.931, ³29.994[↓] and 968.20[↓] as they relate to seized
 15 and confiscated wild animals, carcasses, vehicles, boats or other objects or property”.

16 ↓ 69. Page 66, line 21: after “s. 22.01 (7) (k)”^o insert “The rules shall specify that
 17 fur-bearing animals to which s. ⁶²⁷29.267[↓] apply are domesticated animals.”.

18 **70.** Page 76, line 12: after that line insert:

19 “**SECTION 27m.** 29.319 (1) (intro.)[↓] of the statutes, as created by 1999 Wisconsin
 20 Act 9, is amended to read:

1 29.319 (1) (intro.) ~~In regulating~~ The department may regulate falconry and the
 2 taking of raptors for use in falconry; ~~In so doing,~~ ^o the department may do any of the
 3 following.”.

History: 1999 a. 9.

4 √ **71.** Page 77, line 14: restore the stricken material.

5 √ **72.** Page 77, line 15: delete that line and substitute: “fur-bearing animals in
 6 captivity, as ~~specified~~ ^{defined} in s. ~~29.873~~ 29.627, or for a person authorized”.

7 ↓ **73.** Page 82, line 10: delete that line and substitute:

8 “**SECTION 77m.** 29.873 of the statutes is renumbered 29.627.”

9 **74.** Page 83, line 12: after that line insert:

10 “**SECTION 85m.** 29.931 (1) of the statutes is amended to read:

11 29.931 (1) **SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS.** The
 12 department and its wardens shall seize and confiscate any wild animal, carcass or
 13 plant caught, killed, taken, had in possession or under control, sold or transported
 14 in violation of ch. 22 or this chapter and ~~the~~ The officer may, with or without
 15 warrant, open, enter and examine all buildings, camps, boats on inland or outlying
 16 waters, vehicles, valises, packages and other places where the officer has probable
 17 cause to believe that wild animals, carcasses or plants, taken or held in violation of
 18 this chapter, are to be found.”

please fix to closed quotes.

History: 1997 a. 248 ss. 108 to 110,712.

19 ↓ **75.** Page 83, line 17: after “violation of” insert “ch. 22 or”.

20 ↓ **76.** Page 83, line 23: after “violation of” insert “ch. 22 or”.

21 **77.** Page 84, line 2: after that line insert:

22 **SECTION 86m.** 29.934 (2) of the statutes is amended to read:

INSERT
6-21
FROM
Page
22

1 ^g 29.934 (2) On any sales under this section of wild animals or carcasses, the
 2 department or the agent selling them shall issue to each purchaser a certificate, on
 3 forms prepared and furnished by the department, covering the sales. The wild
 4 animals or carcasses subject to regulation under this chanter that are so purchased
 5 shall be consumed or otherwise disposed of by the purchaser within a period to be set
 6 by the department, but may not be resold or exchanged, in whole or in part, to any
 7 other person, except as provided in sub. (3)."

History: 1975 c. 97,199; 1981 c. 98 s. 3; 1993 a 169; 1995 a. 79, 126, 225; 1997 a. 35; 1997 a. 248 ss. 113 to 115; Stats. 1997 s. 29.934; 1997 a. 285 s. 1; s. 13.93 (2) (c).
 8 ↓ 78. Page 84, line 8: after "subject" insert "to".

9 **79.** Page 86, line 21: after that line insert:

10 "SECTION 91g. 93.07 (10) (b) ↓ of the statutes is amended to read:

11 93.07 (10) (b) To protect the health of domestic animals ~~of~~ and wild animals
 12 subject to regulation under ch. 22 that are located ⁱⁿ the state; to determine and employ
 13 the most efficient and practical means for the prevention, suppression, control and
 14 eradication of communicable diseases among domestic animals and wild animals
 15 subject to regulation under ch. 22, and for these purposes it may establish, maintain,
 16 enforce and regulate such quarantine and such other measures relating to the
 17 importation, movement and care of animals and their products, the disinfection of
 18 suspected localities and articles, and the disposition of animals, as the department
 19 may deem necessary. The definition of "communicable disease" in s. 990.01 (5g) does
 20 not apply to this paragraph.

ORDINANCE VIOLATIONS

History: 1971 c. 125; 1975 c. 189, 323, 394; 1979 c. 34, 129, 221, 361; 1981 c. 20, 291; 1981 c. 391 s. 210; 1983 0.410; 1985 a. 29; 1987 a. 27,186; 1987 a. 399 ss. 307p, 443yx; 1987 a. 403; 1989 a. 56; 1991 a. 39, 269, 309; 1993 a. 216; 1995 a. 27 ss. 3554 to 3556, 9116 (5), 9145 (1); 1995 a. 79.450; 1997 a. 27,192.

21 ↓ SECTION 91r. 95.23 (5) of the statutes is created to read:

22 95.23 (5) This section applies to wild animals that are subject to regulation
 23 under ch. 22."

Move to 6-21

86m
 86m
 SECTION 29.931 (4) ER; 29.931 (4) ✓
 29.931 (4) For purposes of this section a violation of ch. 22 includes a violation of an ordinance enacted under s. 22.43.3

INSERT 6-21

1 80. Page 87, line 3: delete the material beginning with that line and ending

2 *SET*
→ with ~~on~~ page 100, line 19.

3 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1237/7An

MGG.../.....

WJ

1. Pursuant to your instructions, I have ⁽⁶⁾ deleted all, of the following provisions relating to rule-making authority: ss. 22.15 (5), 22.16 (6), 22.17 (3), 22.18 (5) (c), 22.19 (6), 22.20 (4), 22.21 (3), 22.23 (3), 22.25 (4), 22.26 (4), 22.27 (4), ^{and} 22.28 (4). I modified but did not delete the rule-making authority for rehabilitation license. See s. 22.24 (3) and the drafter's note below. However, it is unclear to me, and I think it could well be unclear to a court, whether all of these provisions duplicate generic rule-making authority under s. 227.11. Under s. 227.11, (2) (a), DNR may only promulgate rules that "interpret" the provisions of the statutes that it enforces and administers. I am not sure whether "interpreting" includes imposing additional standards, limitations and requirements.

Furthermore, some of the deleted rule-making authority is quite specific. Sections 22.15 (5) and 22.16 (6) refer to requirements for fencing farms. Sections 22.20 (4) and 22.21 (3) refer to standards that provide adequate protection for the wild animals that are used in dog training and dog trials. Section 22.23 (3) refers to specifying species of wild animals that may be introduced and to specifying where they may be introduced.

Finally, eliminating the word "qualified" from most of these provisions makes it even less clear what authority DNR has in determining who will receive these licenses. Any person who files a "proper" application and pays the fee will receive the license. While some of the licensing provisions have statutory requirements that an applicant must meet, many do not. This is particularly true of deer farm licenses, white-tailed deer venison sales licenses, hound dog training licenses, dog trial licenses and stocking licenses.

2. There has to be a reference in ch. 22 to the rules in ch. 29 regarding falconry. Otherwise, since a raptor is a "captive wild animal", some other ch. 22 license will be necessary in order to possess, exhibit, propagate or conduct other falconry activities.

3. Regarding the exemption from the, statutory requirements for rehabilitation licenses & here ^{really} are not any statutory requirements (except for the age requirements) so I left in language concerning requirements to be promulgated as rules. Please let me know if you want any changes.

4. Note that "possess" is defined in reviewing the change in the language concerning service of notice of a quarantine order under s. 22.41 (2) (into.) The "person possessing" the wild animal can be a caretaker or an absent owner.. OK?

5. I have made the changes that were requested regarding ch. 173. Due to time constraints, I have not been able to determine whether using ss. 29.931 and 29.934 sufficiently protects the due process rights of owners of animals subject to regulation under ch. 22. In drafting this legislation, I had ^{purpose} used ch. 173 as the vehicle for establishing these procedures. First, ch. 173 has no definition of "animal". Even though DATCP may take the position that it does not cover wild animals subject to regulation under ch. 22, there is room for argument to the contrary. Secondly, ch. 173 amply protects the due process rights of the animal owner. Finally ch. 173 covers unclaimed and abandoned live animals. ~~Ch. 29~~ ^{Chapter} does not address this since the animals are wild and presumably can just be released. Note that s. 22.42 (1) authorizes wardens to accept abandoned, stray and unwanted animals, those involved in fights and those delivered by veterinarians. But there are no specific procedures as to what DNR is to do with them. OK?

^{parallel} If the concern is having DNR procedures comingled with those in ch. 173, perhaps provisions ~~that are parallel to~~ could be created in ch. 22.

Also note in amending s. 29.931 I only included ch. 22 in one cross-reference. DNR's inspection authority for ch. 22 is found in s. 22.37.

6. I did not think any/changes were necessary to s. 29.936 (1) and (2) in light of the changes to s. 29.931 (1) and (2) (a) in this draft.

7. As requested, I have eliminated the repeal of s. 29.873. I feel that this issue should be addressed in ch. 22, but due to time constraints and the language in s. 29.973 being so sweeping, I have not done so. Note the change I made in s. 22.44 (1). If this change is not made, DNR could fail to specify the fur-bearing animals covered by s. 29.973 as being domesticated animals for purposes of ch. 22 and thereby subject them to regulation under ch. 22.

8. I have made the change you requested in s. 93.07 (10) (b). I do not think it gives DATCP specific inspection authority, however. ~~It~~ ^g therefore ~~has~~ ^g have also created s. 95.23 (5). OK?

9. Regarding DATCP's role: ~~Do~~ you want to take out lines 1 to 4 on page 60 or lines 21 to 23 on page 61? Do you want to remove the reference to DATCP on page 63, lines 8 and 9?

10. Please review my changes regard ^{ing} reptiles and ^{possessing} amphibians carefully. Note that I deleted s. 22.15 (1) (c). I also changed s. 22.12 (4) to parallel s. 22.12 (1). I did not think it made sense ~~to have~~ ^{require} to follow rules for possession and taking reptiles and amphibians and then ~~have~~ a Class A license to sell them. It seemed to me that the concept of purchasing these animals is absent from the draft so I included that in s. 22.12 (4). OK?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 2673215

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1237/1dn
MGG:wlj:ch

January 31, 2000

1. Pursuant to your instructions, I have deleted all of the following provisions relating to rule-making authority: ss. 22.15 (5), 22.16 (6), 22.17 (3), 22.18 (5) (c), 22.19 (6), 22.20 (4), 22.21 (3), 22.23 (3), 22.25 (6), 22.26 (4), 22.27 (4) and 22.28 (4). I modified but did not delete the rule-making authority for rehabilitation license. See s. 22.24 (3) and the drafter's note below. However, it is unclear to me, and I think it could well be unclear to a court, whether all of these provisions duplicate generic rule-making authority under s. 227.11. Under s. 227.11 (2) (a), DNR may only promulgate rules that "interpret" the provisions of the statutes that it enforces and administers. I am not sure whether "interpreting" includes imposing additional standards, limitations and requirements.

Furthermore, some of the deleted rule-making authority is quite specific. Sections 22.15 (5) and 22.16 (6) refer to requirements for fencing farms. Sections 22.20 (4) and 22.21 (3) refer to standards that provide adequate protection for the wild animals that are used in dog training and dog trials. Section 22.23 (3) refers to specifying species of wild animals that may be introduced and to specifying where they may be introduced.

Finally, eliminating the word "qualified" from most of these provisions makes it even less clear what authority DNR has in determining who will receive these licenses. Any person who files a "proper" application and pays the fee will receive the license. While some of the licensing provisions have statutory requirements that an applicant must meet, many do not. This is particularly true of deer farm licenses, white-tailed deer venison sales licenses, hound dog training licenses, dog trial licenses and stocking licenses.

2. There has to be a reference in ch. 22 to the rules in ch. 29 regarding falconry. Otherwise, since a raptor is a "captive wild animal", some other ch. 22 license will be necessary in order to possess, exhibit, propagate or conduct other falconry activities.

3. Regarding the exemption from the statutory requirements for rehabilitation licenses, there really are not any statutory requirements (except for the age requirements) so I left in language concerning requirements to be promulgated as rules. Please let me know if you want any changes.

4. Note that "possess" is defined in reviewing the change in the language concerning service of notice of a quarantine order under s. 22.41 (2) (intro.). The "person possessing" the wild animal can be a caretaker or an absent owner. OK?

5. I have made the changes that were requested regarding ch. 173. Due to time constraints, I have not been able to determine whether using ss. 29.931 and 29.934 sufficiently protects the due process rights of owners of animals subject to regulation under ch. 22. In drafting this legislation, I had purposely used ch. 173 as the vehicle for establishing these procedures. First, ch. 173 has no definition of "animal". Even though DATCP may take the position that it does not cover wild animals subject to regulation under ch. 22, there is room for argument to the contrary. Secondly, ch. 173 amply protects the due process rights of the animal owner. Finally ch. 173 covers unclaimed and abandoned live animals. Chapter 29 does not address this since the animals are wild and presumably can just be released. Note that s. 22.42 (1) authorizes wardens to accept abandoned, stray and unwanted animals, those involved in fights and those delivered by veterinarians. But there are no specific procedures as to what DNR is to do with them. OK?

If the concern is having DNR procedures comingled with those in ch. 173, perhaps parallel provisions could be created in ch. 22.

Also note in amending s. 29.931, I only included ch. 22 in one cross-reference. DNR's inspection authority for ch. 22 is found in s. 22.37.

6. I did not think any changes were necessary to s. 29.936 (1) and (2) in light of the changes to s. 29.931 (1) and (2) (a) in this draft.

7. As requested, I have eliminated the repeal of s. 29.873. I feel that this issue should be addressed in ch. 22, but due to time constraints and the language in s. 29.873 being so sweeping, I have not done so. Note the change I made in s. 22.44 (1). If this change is not made, DNR could fail to specify the fur-bearing animals covered by s. 29.873 as being domesticated animals for purposes of ch. 22 and thereby subject them to regulation under ch. 22.

8. I have made the change you requested in s. 93.07 (10) (b). I do not think it gives DATCP specific inspection authority, however. I therefore have also created s. 95.23 (5). OK?

9. Regarding DATCP's role: do you want to take out lines 1 to 4 on page 60 or lines 21 to 23 on page 61? Do you want to remove the reference to DATCP on page 63, lines 8 and 9?

10. Please review my changes regarding reptiles and amphibians carefully. Note that I deleted s. 22.15 (1) (c). I also changed s. 22.12 (4) to parallel s. 22.12 (1). I did not think it made sense to follow rules for possessing and taking reptiles and amphibians and then require a Class A license to sell them. It seemed to me that the concept of purchasing these animals is absent from the draft so I included that in s. 22.12 (4). OK?

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



State of Wisconsin
1999 - 2000 LEGISLATURE

RMR
LRBa1237/12
MGG:wlj:ch

Now

**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL (LRB-0538/4)**

1 At the locations indicated, amend the bill as follows:

2 1. Page 10, line 21: delete that line and substitute:

3 **"(19) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c) and**
4 **does not include a conservation warden."**

5 2. Page 16, line 5: delete "a falconry license,".

6 3. Page 16, line 6: after "license" insert "or under s. 29.319".

7 **4.** Page 17, line 1: delete "a falconry license,".

8 **5.** Page 17, line 2: after "research license" insert "or under s. 29.319".

9 **6.** Page 18, line 23: delete "a falconry license,".

10 **7.** Page 18, line 25: after "license" insert "or under s. 29.319".

11 8. Page 19, line 2: delete ", a falconry license".

12 **9.** Page 19, line 19: substitute "or a scientific" for ", a scientific".

- 1 **10.** Page 19, line 19: substitute “under s. 29.319” for “a falconry license”.
- 2 11. Page 20, line 20: delete the material beginning with “market” and ending
3 with “falconry” on line 21 and substitute “market”.
- 4 12. Page 20, line 21: after “exhibiting license” insert “or under s. 29.319”.
- 5 **13.** Page 21, line 6: delete “a falconry license,”.
- 6 **14.** Page 21, line 7: after “stocking license” insert “or under s. 29.319”.
- 7 **15.** Page 22, line 24: substitute “**Sale**” for “**Possession and sale**”.
- 8 16. Page 22, line 25: substitute “; GENERAL” for “MORE THAN 5 PROHIBITED”.
- 9 **17.** Page 23, line 2: delete that line and substitute “is authorized to do so under
10 rules promulgated by the department or unless sub. (3) applies.”.
- 11 18. Page 23, line 3: delete lines 3 to 22.
- 12 **19.** Page 24, line 1: delete that line and substitute:
13 “(4) **RESTRICTIONS ON SALES AND PURCHASES.** Unless authorized to do so under
14 rules promulgated by the department, no person may sell or purchase live native
15 wild reptiles or live”.
- 16 **20.** Page 24, line 8: delete that line and substitute:
17 “(c) Native reptiles or amphibians that are legally taken or reared outside this
18 state and that are sold to educational institutions under”.
- 19 21. Page 24, line 15: substitute “sub.” for “subs.”.
- 20 **22.** Page 24, line 16: delete “and (2)”.
- 21 **23.** Page 25, line 17: delete the material beginning with “contains” and ending
22 with “label” on line 18.

Page 24, line 20: delete "or selling" and substitute "selling"

or purchasing

1 24. Page 27, line 8: delete "qualified".

2 25. Page 27, line 12: delete "qualified".

3 26. Page 27, line 14: delete lines 14 to 21.

4 ~~27. Page 29, line 5: delete lines 5 to 7.~~

5 28. Page 29, line 9: delete "qualified".

6 29. Page 30, line 9: delete the material beginning with "If" and ending with
7 "deer." on line 11.

8 ~~30. Page 30, line 13: delete lines 13 to 15.~~

9 31. Page 30, line 17: delete "qualified".

10 ~~32. Page 30, line 22: delete lines 22 to 24.~~

11 33. Page 31, line 2: delete "qualified".

12 ~~34. Page 32, line 7: delete lines 7 to 8.~~ #. Page 31, line 6: after "beaver," insert "coyote,"

13 35. Page 32, line 10: delete "qualified".

14 ~~36. Page 34, line 18: delete lines 18 to 20.~~

15 37. Page 34, line 22: delete "qualified".

16 38. Page 35, line 15: delete "qualified".

17 ~~39. Page 36, line 7: delete lines 7 to 10.~~


18 40. Page 36, line 17: delete "qualified".

19 ~~41. Page 37, line 6:~~¹⁰ delete the material beginning with that line and ending
20 with page 38, line 10.

21 42. Page 38, line 13: delete "qualified".

1 **43.** ~~Page 38, line 17: delete lines 17 to 20.~~

2 **44.** Page 38, line 22: delete "qualified".

3 **45.** ~~Page 39, line 1: delete lines 1 to 4 and substitute~~ *Page 39, line 4: after "licenses." insert* 

4 **(2) QUALIFICATIONS, RULES.** ~~The department shall promulgate rules to~~
5 ~~establish the qualifications that are required to obtain a rehabilitation license.~~ *Y* ~~The~~
6 ~~department may promulgate rules to establish standards for exempting an~~
7 ~~individual from any of these qualifications.~~ *rules* *from* *any provisions* *under this chapter*

8 46. Page 39, line 6: delete "qualified".

9 **47.** ~~Page 40, line 12: delete lines 12 to 13.~~

10 **48.** ~~Page 41, line 8: delete lines 8 to 9.~~

11 **49.** Page 41, line 11: delete "qualified".

12 **50.** ~~Page 42, line 1: delete lines 1 to 3.~~

13 51. Page 42, line 6: delete "qualified".

14 **52.** ~~Page 43, line 1: delete lines 1 to 3.~~

15 **53.** Page 47, line 16: delete lines 16 to 20.

16 **54.** Page 48, line 14: substitute "or s. 29.871" for ", s. 29.871".

17 **55.** Page 48, line 14: delete "or s. 29.873, 1997".

18 56. Page 48, line 15: delete "stats.,".

19 **57.** Page 49, line 2: substitute "may" for "shall".

20 58. Page 50, line 1: delete lines 1 to 5.

21 **59.** Page 53, line 18: delete that line;

22 60. Page 54, line 9: delete "FALCONRY".

1 **61.** Page 54, line 10: delete "LICENSES,".

2 **62.** Page 54, line 12: delete the material beginning with "preserve" and ending
3 with "falconry" on line 13 and substitute "preserve".

4 **63.** Page 55, line 7: delete lines 7 to 10.

5 **64.** Page 57, line 15: delete lines 15 to 17.

6 **65.** Page 60, line 6: delete the material beginning with "or" and ending with
7 "protection" on line 7.

8 **66.** Page 60, line 12: delete "requiring certificate".

9 **67.** Page 64, line 2: delete "or the department of agriculture, trade and
10 consumer protection".

11 **68.** Page 64, line 9: delete the material beginning with "and" and ending with
12 "premises" on line 10.

13 **69.** Page 64, line 10: delete the material beginning with "issuing" and ending
14 with "quarantine order" on line 11.

15 **70.** Page 65, line 3: delete "issuing order".

16 **71.** Page 65, line 6: delete "issuing order".

17 **72.** Page 66, line 15: delete lines 15 and 16 and substitute:

18 "(b) A conservation warden and the department shall comply with the
19 applicable procedures under ss. 29.931, 29.934 and 968.20 as they relate to seized
20 and confiscated wild animals, carcasses, vehicles, boats or other objects or property."

21 **73.** Page 66, line 21: after "s. 22.01 (7) (b)." insert "The rules shall specify that
22 fur-bearing animals to which s. 29.627 apply are domesticated animals."

1 **74.** Page 76, line 12: after that line insert:

2 “**SECTION 27m.** 29.319 (1) (intro.) of the statutes, as created by 1999 Wisconsin
3 Act 9, is amended to read:

4 29.319 (1) (intro.) ~~In regulating~~ The department may regulate falconry and the
5 taking of raptors for use in falconry, In so doing, the department may do any of the
6 following:“.

7 **75.** Page 77, line 14: restore the stricken material.

8 **76.** Page 77, line 15: delete that line and substitute “fur-bearing animals in
9 captivity, as defined in s. ~~29.873~~ 29.627, or for a person authorized”.

10 **77.** Page 82, line 10: delete that line and substitute:

11 “**SECTION 77m.** 29.873 of the statutes is renumbered 29.627.“.

12 **78.** Page 83, line 12: after that line insert:

13 “**SECTION 85m.** 29.931 (1) **of the statutes** is amended to read:

14 29.931 (1) **SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS**, The
15 department and its wardens shall seize and confiscate any wild animal, carcass or
16 plant caught, killed, taken, had in possession or under control, sold or transported
17 in violation of ch. 22 or this chapter and-the, The officer may, with or without
18 warrant, open, enter and examine all buildings, camps, boats on inland or outlying
19 waters, vehicles, **valises**, packages and other places where the officer has probable
20 **cause to believe that wild animals**, carcasses or plants, taken or held in violation of
21 this chapter, are to be found.“.

22 **79.** Page 83, line 17: after “violation of” insert “ch. 22 or”.

23 **80.** Page 83, line 23: after “violation of” insert “ch. 22 or”.

1 81 . Page 84, line 2: after that line insert:

2 “SECTION 86m. 29.931 (4) of the statutes is created to read:

3 29.931 (4) ORDINANCE VIOLATIONS . For purposes of this section a violation of ch.
4 22 includes a violation of an ordinance enacted under s. 22.43.

5 SECTION 86r. 29.934 (2) of the statutes is amended to read:

6 29.934 (2) On any sales under this section of wild animals or carcasses, the
7 department or the agent selling them shall issue to each purchaser a certificate, on
8 forms prepared and furnished by the department, covering ~~the~~ sales. The wild
9 animals or carcasses subject to regulation under this chanter that are so purchased
10 shall be consumed or otherwise disposed of by the purchaser within a period to be set
11 by the department, but may not be resold or exchanged, in whole or in part, to any
12 other person, except as provided in sub. (3).”.

13 82. Page 84, line 8: after “subject” insert “to”.

14 83. Page 86, line 21: after that line insert:

15 “SECTION 91g. 93.07 (10) (b) of the statutes is amended to read:

16 93.07 (10) (b) To protect the health of domestic animals ~~of~~ and wild animals
17 subject to regulation under ch. 22 that are located in the state; to determine and
18 employ the most efficient and practical means for the prevention, suppression,
19 control and eradication of communicable diseases among domestic animals and wild
20 animals subject to regulation under ch. 22, and for these purposes it may establish,
21 maintain, enforce and regulate such quarantine and such other measures relating
22 to the importation, movement and care of animals and their products, the
23 disinfection of suspected localities and articles, and the disposition of animals, as the

1 department may deem necessary. The definition of “communicable disease” in s.
2 990.01 (5g) does not apply to this paragraph.

3 **SECTION 91r.** 95.23 (5) of the statutes is created to read:

4 95.23 (5) This section applies to wild animals that are subject to regulation
5 under ch. 22.“.

6 84. Page 87, line 3: delete the material beginning with that line and ending
7 with page 100, line 19.

8 **(END)**

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AA- 1 to AS-694

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Page 2, line 8: before "MURE" insert (OF-0



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State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS **IN:**

**ASSEMBLY AMENDMENT 1,
TO 1999 ASSEMBLY BILL 684**

Prepared by the Legislative Reference Bureau
(February 29, 2000)

- 1.** Page 2, line 8: before "MORE" insert "OF".



CORRECTIONS IN: CCC (LRBa1237/2)

**ASSEMBLY AMENDMENT 1
TO 1999 ASSEMBLY BILL 684**

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Prepared by the Legislative Reference Bureau

(Date)

March 13, 2000

In engrossing, the following correction was made:

1. Page 4, line 5: delete “, s.” and substitute “s.”.

KMG:

..... =2





State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS

IN:

ASSEMBLY AMENDMENT 1,

TO 1999 ASSEMBLY BILL 684

Prepared by the Legislative Reference Bureau
(March 13, 2000)

In engrossing, the following correction was made:

- 1 . Page 4, line 5: delete “, s.” and substitute “s.”.



SCOTT R JENSEN
ASSEMBLY SPEAKER

February 7, 2000

Deborah **Uecker**
Division of Executive Budget and Finance
Department of Administration

Ms. **Uecker**,

Pursuant to Joint Rule 41(3)(b), please request the state Department of Natural Resources to prepare a supplemental fiscal estimate on **Assembly** Bill 684, as amended **by** Assembly Amendment 1.

Sincerely yours,

Scott R. Jensen
Assembly Speaker

SRJ/rjp

copy to.....
1) DOA (Deborah Uecker)
2) Rep. Johnsrud's office
3) ACC
(Orig. Filed In Amend Folder)