

## 1999 SENATE BILL 336

January 25, 2000 - Introduced by Senator BURKE, cosponsored by Representative BLACK. Referred to Agriculture, Environmental Resources and Campaign Finance Reform.

1     **AN ACT** *to repeal* 31.35, 31.36 (14) and 94.26; and *to amend* 31.34, 94.27 and  
2           94.31 of the statutes; **relating to:** dams, ditches and drains used in the  
3           cultivation of cranberries.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the construction and maintenance of dams, ditches and drains that are used in the cultivation of cranberries are exempt from all of the permitting and other regulatory requirements administered by the department of natural resources that cover dams and other structures and activities that affect navigable waters. This bill repeals this exemption.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

4           **SECTION 1.** 31.34 of the statutes is amended to read:  
5           **31.34 Flow of water regulated.** Each person, firm or corporation  
6           maintaining a dam on any navigable stream shall pass at all times at least 25% of  
7           the natural low flow of water of such stream, except as otherwise provided by law.

**SENATE BILL 336****SECTION 1**

1 This section, however, shall not apply to a plant or dam where the water is discharged  
2 directly into a lake, mill pond, or storage pond ~~or cranberry marsh~~, nor shall it apply  
3 to cases where in the opinion of the department such minimum discharge is not  
4 necessary for the protection of fish life. Any person, firm or corporation violating this  
5 section shall be fined not less than \$50 nor more than \$1,000.

6 **SECTION 2.** 31.35 of the statutes is repealed

7 **SECTION 3.** 31.36 (14) of the statutes is repealed.

8 **SECTION 4.** 94.26 of the statutes is repealed.

9 **SECTION 5.** 94.27 of the statutes is amended to read:

10 **94.27 Liability for damages; cranberry cultivation.** Any person who  
11 builds or maintains any dam or constructs or keeps open any ditch or drain under  
12 ~~s. 94.26~~ for the cultivation of cranberries is liable to persons whose lands are  
13 overflowed or otherwise injured by the dam, ditch or drain for the full sum of  
14 damages sustained, which shall be ascertained under s. 94.28 and recovered under  
15 ss. 94.28 to 94.30.

16 **SECTION 6.** 94.31 of the statutes is amended to read:

17 **94.31 Service of notice.** In all cases arising under ss. 94.26 94.27 to 94.30  
18 when it shall be necessary to serve any notice upon any person who may be out of the  
19 state or whose whereabouts shall not be known to the person desiring to serve the  
20 same, such notice may be served upon any agent or employe of such person who may  
21 be found within this state, and such service shall have the same effect as if it was  
22 made upon the party interested.

23 **SECTION 7. Effective date.**

