

2001 ASSEMBLY BILL 115

February 13, 2001 – Introduced by Representatives SKINDRUD, AINSWORTH, ALBERS, BOYLE, GRONEMUS, GUNDERSON, HOVEN, HUNDERTMARK, JESKEWITZ, KRAWCZYK, F. LASEE, LOEFFELHOLZ, MILLER, MUSSER, OTT, PETROWSKI, PETTIS, RYBA, TOWNSEND and VRAKAS, cosponsored by Senators WELCH, FARROW and SCHULTZ. Referred to Committee on Small Business and Consumer Affairs.

1 **AN ACT to amend** 29.347 (2), 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1)
2 (g) and 77.92 (4); and **to create** 29.543, 71.07 (5d), 71.10 (4) (fm), 71.28 (5d) and
3 71.30 (3) (eon) of the statutes; **relating to:** carcasses of wild animals left with
4 processors for processing.

Analysis by the Legislative Reference Bureau

Under current law, the department of natural resources (DNR) may give away fish and game carcasses that DNR has seized in enforcing the fish and game laws to food pantries and similar food distribution services. Otherwise, no person may sell or give away meat from wild animals killed by hunters except under very limited circumstances. This bill creates another exception to this general prohibition for persons who receive wild animal carcasses for processing (processors) from customers who then fail to pick up the product after the carcasses are processed. Under this bill, these processors may destroy or donate a carcass to a charitable organization after processing the carcass if the customer fails to respond to a notice sent by the processor that states the customer must claim the carcass within five days following the postmarked date of the notice.

This bill creates an income tax and franchise tax credit for processors that destroy or donate a carcass that a person does not pick up after processing. Sole proprietorships and corporations may claim the credit. Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in proportion to their ownership interests. The credit is an amount equal to the total cost of processing and storing the carcass.

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If the credit claimed by a business exceeds the business' tax liability, the state will not issue a refund check, but the business may carry forward any remaining credit to subsequent taxable years.

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

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

1 **SECTION 1.** 29.347 (2) of the statutes is amended to read:

2 29.347 **(2)** DEER TAGS. Except as provided under sub. (5) and s. 29.324 (3), any
3 person who kills a deer shall immediately attach to the ear or antler of the deer a
4 current validated deer carcass tag which is authorized for use on the type of deer
5 killed. Except as provided under sub. (2m) or s. 29.543, 29.871 (7), (8) or (14), or 29.89
6 (6), no person may possess, control, store, or transport a deer carcass unless it is
7 tagged as required under this subsection. The carcass tag may not be removed before
8 registration. The removal of a carcass tag from a deer before registration renders the
9 deer untagged.

10 **SECTION 2.** 29.543 of the statutes is created to read:

11 **29.543 Disposal of unclaimed carcasses. (1) DEFINITIONS.** In this section:

12 (a) "Charitable organization" has the meaning given in s. 29.89 (1) (a).

13 (b) "Processor" means a person who is engaged in the business of processing
14 carcasses of wild animals.

15 **(2) AUTHORIZATION.** A processor who has processed a carcass of a wild animal
16 for a customer may destroy the carcass or donate the carcass to a charitable
17 organization if all of the following apply:

18 (a) The processor has sent the customer a notice to the customer's last-known
19 mailing address. The notice shall state that the carcass must be claimed and

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1 removed from the premises of the processor within 5 days following the postmarked
2 date of the notice, or the carcass will be destroyed or donated to a charitable
3 organization.

4 (b) The customer who left the carcass has failed to remove the carcass from the
5 premises of the processor within 5 days after being notified under par. (a).

6 **(3) TAX CREDIT.** A processor who is authorized to destroy or donate a wild animal
7 carcass under sub. (2) may claim a tax credit under s. 71.07 (5d) or 71.28 (5d) in an
8 amount equal to the total cost of processing and storing the wild animal carcass.

9 **(4) TAGGING.** A processor may require that a customer leaving a carcass of a
10 wild animal for processing also leave the appropriate tag, but the requirement that
11 the tag remain with the carcass under ss. 29.237 (4), 29.347 (2) and (2m), 29.867 (6)
12 (b) and (c) or under any rule promulgated by the department, and s. 29.871 (8) and
13 (14) (b) 3. does not apply to a processor or to a charitable organization to which a
14 processor makes a donation under this section.

15 **(5) RECORD KEEPING.** If a processor sends a notice under sub. (2) (a), the
16 processor shall keep a written record of the date on which the notice was postmarked,
17 the name of the customer to whom the notice was mailed, and the address to which
18 the notice was mailed. A processor shall keep a record required under this section
19 for one year after the carcass is destroyed or donated.

20 **(6) DESTRUCTION OF CARCASSES.** A processor who destroys the carcass of a wild
21 animal under this section shall comply with all of the applicable denaturing
22 requirements promulgated as rules by the department of agriculture, trade and
23 consumer protection.

24 **(7) INAPPLICABILITY.** This section does not apply to farm-raised deer or
25 farm-raised fish.

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1 **SECTION 3.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and, (3s), and (5d)~~ and not passed through by a
4 partnership, limited liability company, or tax-option corporation that has added that
5 amount to the partnership's, company's, or tax-option corporation's income under s.
6 71.21 (4) or 71.34 (1) (g).

7 **SECTION 4.** 71.07 (5d) of the statutes is created to read:

8 71.07 **(5d)** CARCASS PROCESSING CREDIT. (a) Any processor, as defined in s.
9 29.543 (1) (b), who destroys or donates a wild animal carcass under s. 29.543 may
10 claim as a credit against the tax imposed under s. 71.02 an amount equal to the total
11 cost of processing and storing the wild animal carcass.

12 (b) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
13 under s. 71.28 (4), apply to the credit under this subsection.

14 (c) Partnerships, limited liability companies, and tax-option corporations may
15 not claim the credit under this subsection, but the eligibility for, and the amount of,
16 the credit are based on their payment of the costs of processing and storing a wild
17 animal carcass. A partnership, limited liability company, or tax-option corporation
18 shall compute the amount of credit that each of its partners, members, or
19 shareholders may claim and shall provide that information to each of them.
20 Partners, members of limited liability companies, and shareholders of tax-option
21 corporations may claim the credit in proportion to their ownership interest.

22 (d) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
23 applies to the credit under this subsection.

24 **SECTION 5.** 71.10 (4) (fm) of the statutes is created to read:

25 71.10 **(4)** (fm) Carcass processing credit under s. 71.07 (5d).

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1 **SECTION 6.** 71.21 (4) of the statutes is amended to read:

2 71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
3 (2dj), (2dL), (2ds), (2dx) ~~and, (3s), and (5d)~~ and passed through to partners shall be
4 added to the partnership's income.

5 **SECTION 7.** 71.26 (2) (a) of the statutes is amended to read:

6 71.26 **(2)** (a) *Corporations in general.* The "net income" of a corporation means
7 the gross income as computed under the ~~internal revenue code~~ Internal Revenue
8 Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di)
9 plus the amount of credit computed under s. 71.28 (1) and (3) to (5) plus the amount
10 of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and, (1dx),~~
11 ~~and (5d)~~ and not passed through by a partnership, limited liability company, or
12 tax-option corporation that has added that amount to the partnership's, limited
13 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
14 (g) plus the amount of losses from the sale or other disposition of assets the gain from
15 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were
16 sold or otherwise disposed of at a gain and minus deductions, as computed under the
17 ~~internal revenue code~~ Internal Revenue Code as modified under sub. (3), plus or
18 minus, as appropriate, an amount equal to the difference between the federal basis
19 and Wisconsin basis of any asset sold, exchanged, abandoned, or otherwise disposed
20 of in a taxable transaction during the taxable year, except as provided in par. (b) and
21 s. 71.45 (2) and (5).

22 **SECTION 8.** 71.28 (5d) of the statutes is created to read:

23 71.28 **(5d)** CARCASS PROCESSING CREDIT. (a) Any processor, as defined in s.
24 29.543 (1) (b), who destroys or donates a wild animal carcass under s. 29.543 may

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1 claim as a credit against the tax imposed under s. 71.23 an amount equal to the total
2 cost of processing and storing the wild animal carcass.

3 (b) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
4 under sub. (4), apply to the credit under this subsection.

5 (c) Partnerships, limited liability companies, and tax-option corporations may
6 not claim the credit under this subsection, but the eligibility for, and the amount of,
7 the credit are based on their payment of the costs of processing and storing a wild
8 animal carcass. A partnership, limited liability company, or tax-option corporation
9 shall compute the amount of credit that each of its partners, members, or
10 shareholders may claim and shall provide that information to each of them.
11 Partners, members of limited liability companies, and shareholders of tax-option
12 corporations may claim the credit in proportion to their ownership interest.

13 (d) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
14 to the credit under this subsection.

15 **SECTION 9.** 71.30 (3) (eon) of the statutes is created to read:

16 71.30 (3) (eon) Carcass processing credit under s. 71.28 (5d).

17 **SECTION 10.** 71.34 (1) (g) of the statutes is amended to read:

18 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
19 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and~~, (3), and
20 (5d) and passed through to shareholders.

21 **SECTION 11.** 77.92 (4) of the statutes is amended to read:

22 77.92 (4) “Net business income”, with respect to a partnership, means taxable
23 income as calculated under section 703 of the Internal Revenue Code; plus the items
24 of income and gain under section 702 of the Internal Revenue Code, including taxable
25 state and municipal bond interest and excluding nontaxable interest income or

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1 dividend income from federal government obligations; minus the items of loss and
2 deduction under section 702 of the Internal Revenue Code, except items that are not
3 deductible under s. 71.21; plus guaranteed payments to partners under section 707
4 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
5 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) and (3s), and (5d); and plus or minus, as
6 appropriate, transitional adjustments, depreciation differences and basis
7 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
8 loss, and deductions from farming. “Net business income”, with respect to a natural
9 person, estate, or trust, means profit from a trade or business for federal income tax
10 purposes and includes net income derived as an employee as defined in section 3121
11 (d) (3) of the Internal Revenue Code.

SECTION 12. Initial applicability.

12 (1) CARCASS PROCESSING CREDIT. The treatment of sections 71.05 (6) (a) 15., 71.07
13 (5d), 71.10 (4) (fm), 71.21 (4), 71.26 (2) (a), 71.28 (5d), 71.30 (3) (eon), 71.34 (1) (g),
14 and 77.92 (4) of the statutes first apply to taxable years beginning on January 1 of
15 the year in which this subsection takes effect, except that if this subsection takes
16 effect after July 31 the treatment of sections 71.05 (6) (a) 15., 71.07 (5d), 71.10 (4)
17 (fm), 71.21 (4), 71.26 (2) (a), 71.28 (5d), 71.30 (3) (eon), 71.34 (1) (g), and 77.92 (4) of
18 the statutes first apply to taxable years beginning on January 1 of the year after the
19 year in which this subsection takes effect.

20
21 (END)